# **MSHA Handbook Series**

U.S. Department of Labor Mine Safety and Health Administration

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# CITATION AND ORDER WRITING HANDBOOK

#### PREFACE

This handbook sets forth the procedures to be followed in writing and issuing citations and orders for health, safety, training, and documentation violations at coal and metal and nonmetal mines. Changes to this handbook must be authorized by the Administrator for Enforcement. Previously issued instructions relating to this subject are superseded by this handbook. This handbook does not supersede compliance related instructions contained in the MSHA Program Policy Manual.

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#### DISCLAIMER

The citations and orders included in this Handbook are examples only and may not be an exact duplicate of the actual forms. Citations and orders issued for violations of the Federal Mine Safety and Health Act of 1977, the Mine Improvement and New Emergency Response Act of 2006, or other standards or regulations must depict gravity and negligence determinations reflective of circumstances present at the time of issuance.

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#### **CHAPTER 1 – INTRODUCTION**

#### I. Authority

The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006, (MINER Act) directs an Authorized Representative (AR) of the Secretary of Labor to issue citations and orders when he or she believes that a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act has occurred. The Mine Act also authorizes an AR to issue an order of withdrawal when an imminent danger condition exists. Sections 103, 104, and 107 of the Mine Act describe in detail the authority for issuing these citations and orders.

#### II. Purpose

This handbook provides guidance for all enforcement personnel in:

- issuing, extending, modifying, vacating, and terminating citations and orders;
- describing the conditions or practices constituting a violation or imminent danger;
- writing clear justification for extensions and modifications of citations and orders of withdrawal;
- adequately describing the area or equipment affected by citations or orders of withdrawal; and
- adequately evaluating the degree of gravity and negligence of the violation.

Procedures, scenarios, and examples in this handbook should be used by all enforcement personnel, except for safeguards, which can only be issued at coal mines.

#### III. Responsibility

If, upon inspection or investigation, an AR believes that a mine operator has committed a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she must issue a citation or order of withdrawal to the mine operator. Each citation or order of withdrawal must be in writing and shall describe with particularity the nature of the violation, including reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, each citation must set a reasonable time for abatement of the violation.

### CHAPTER 2 – COMPLETING MINE CITATION AND ORDER OF WITHDRAWAL (ORDER) FORM

#### Section I Violation Data Blocks

This section describes the violation blocks that are in the Inspection Application System (IAS). If you are issuing a citation through IAS then IAS will use the data that you enter into these blocks to generate the citation. IAS will populate some of the mine specific blocks based on the mine profile that you selected.

- 1. Issue Date:
- 2. Issue Time:
- **3.** Citation/Order Number:
- 4. Served To:
- 5. Operator:
- 6. Mine Name:
- 7. Mine ID or (Contractor):
- **8.** Condition or Practice:

8a. Written Notice (Section 103 (g) of the Mine Act):

Describe in detail the condition(s) or practice(s) that supports the violation or imminent danger that you are citing. If you need more space, check the "Continuation" block in the lower right hand corner of Item 8, and then use a Mine Citation/Order Continuation Form 7000-3a.

Incorporate some of the language directly from the violated standard or section of the Mine Act into this part of the citation. An example is to include "*The tail pulley guard was not kept securely in place*" as part of the description of the 'condition or practice' when citing 30 CFR § 56.12112(b).

Incorporate the location of the violative condition or practice and describe the equipment or area in this part of the citation. An example of this is to include information such as "*The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place.*"

Measurements, observations, or size of an area, if applicable, to which the condition or practice applies/covers should be incorporated into the body of the citation.

How the condition or practice may result in an injury or illness should also be incorporated into the body of the citation. An example of this is: "*The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place. The guard is missing three of the five mounting nuts, allowing the guard to gap open 5 inches exposing miners to entanglement type injuries. An area maintenance miner greases the tail pulley once a week.*"

#### 9. Violation:

- A. (UG Coal Mines Only) Health □ Safety □ Other □
- **B.** Section of Act:

C. Part/Section of Title 30 CFR:

#### Section II Inspector's Evaluation

#### 10. Gravity:

Gravity is an evaluation of the seriousness of the violation. It is determined by the three criteria listed in 30 CFR § 100.3 (e) and discussed below. Inspectors should first determine what injury or illness the standard is designed to prevent. Based on facts, the inspector should consistently consider that same injury or illness when evaluating each of the gravity factors listed on the citation.

#### A. Likelihood of Injury or Illness:

Check the appropriate block to indicate the likelihood of an injury or illness occurring. Factors used to determine likelihood of injury or illness, include duration and frequency of the exposure under continued normal mining practices, the number of miners exposed to the condition or practice; the location and extensiveness of the condition or practice; and the length of time the condition or practice has existed.

Before determining the likelihood of actual harm, a proper evaluation of

gravity must include what the standard seeks to prevent such as a fall, a health hazard, crushing, or electrocution.

#### No Likelihood 🗆

Select this box for violations of laws or regulations that are not designed to prevent injury or illness. This block must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard.

**Example:** Violations of 30 CFR § 50.20 for not submitting accident reports would be evaluated as "No Likelihood".

#### Unlikely 🗆

Select this box for violations of mandatory standards when the injury or illness is not reasonably likely to occur. This would include violations in which you do not expect normal mining operations to trigger an event that would lead to an injury or illness.

**Example:** Electrically nonconductive material is not provided at a switchgear on the surface. If the switchgear is in good condition it is unlikely that the miner using it would come in contact with power.

#### Reasonably Likely

Select this box for violations of mandatory standards when the injury or illness is reasonably likely to occur. This would include violations in which you do not expect normal mining operations to trigger the injury- or illness-causing event.

**Example**: A power cable that is regularly handled and in an active work area has a splice that is not adequately insulated, exposing bare conductors inside.

#### Highly Likely

Select this box for violations of mandatory standards when the injury or illness is highly likely to occur. This would include violations in which the circumstances necessary to trigger the injury- or illness-causing event already exist.

**Example:** *A miner is observed working on an inclined and slick elevated surface without being properly tied off with a safety belt or line.* 

#### Occurred 🗆

The "Occurred" box can only be checked when an injury or illness has actually occurred.

**Example:** A contributing violation to a fatal accident investigation. When an event has "Occurred" and an injury or illness resulted, the severity of injury or illness marked in Item 10B on MSHA Form 7000-3 should match the injury or illness that actually occurred if the actual injury/illness was equal to or more severe than expected.

#### **B.** Injury or Illness:

Evaluate the expected severity of the injury or illness and check the appropriate box based on the facts available. The inspector should document the facts and reasoning used to determine the type of injury or illness that resulted or that would reasonably be expected to result; this determination is independent of the likelihood.

#### No Lost Work Days

Select this box when the expected injury or illness would not cause the affected miner(s) to miss one or more scheduled workday(s) or to be placed on restricted duty, excluding the day of injury or onset of illness. This box must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard.

**Example:** A violation issued for failing to notify MSHA of the change to the operator on the legal identity. This violation would not result in an injury.

#### Lost Work Days or Restricted Duty

Select this box when the expected injury or illness would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or would cause one full day or more of restricted duty.

**Example:** A violation issued for the operator not maintaining a walkway free from debris or other tripping hazards. The walkway is not elevated, and there are no other hazards present that could contribute to an accident being greater than strains, sprains, or abrasions.

#### Permanently Disabling

Select this box when the expected injury or illness would result in the total or partial loss of the use of any member or function of the body.

**Example:** A violation is issued for a silica overexposure. Overexposure causes silicosis and is permanently disabling.

Fatal 🗆

Select this box when the expected injury or illness would result in death, or has a reasonable potential to cause death or has caused death.

**Example**: A violation is issued for a miner working under a large raised component without it being blocked or mechanically secured. If this component fell it would result in fatal crushing injuries.

**Example**: A berm or guardrail is not provided for a haul road located at the top edge of a 300-foot tall highwall. The haul road is accessible but is rarely used. Tire tracks are not present and there is no operational or maintenance need to travel the haul road.

#### C. Significant and Substantial (S&S): Yes No

To consider a violation as S&S, the inspector must find that based upon the particular facts surrounding the violation, there exists a reasonable likelihood the hazard contributed to by the violation will result in an injury or illness of a reasonably serious nature.

In 1984, the Federal Mine Safety and Health Review Commission defined a four-part test for S&S. Under the *Mathies* test, the Secretary must prove:

- 1) The underlying violation of a mandatory standard;
- 2) A discrete safety hazard i.e., a measure of danger to safety contributed to by the violation;
- 3) A reasonable likelihood that the hazard contributed to will result in an injury; and
- 4) *A reasonable likelihood that the injury in question will be of a reasonably serious nature.*

It is the responsibility of the inspector to provide facts to support each of these factors. A key consideration that is useful in evaluating the conditions or practices being cited is the relevant time frame for determining the reasonable likelihood of injury. This includes both the time before the violation is cited and the time that it would have existed if normal mining operations continued. Therefore, if no miners were exposed to the hazard at the time of the violation, an inspector may still evaluate the violation as "reasonably likely". If a miner was exposed to the hazard before the citation is issued or if it is reasonably likely that a miner would be exposed to the hazard if normal mining operations were allowed to continue, then a designation of "reasonably likely" is appropriate and a finding of S&S may be alleged.

Additional factors to be considered in the evaluation of reasonably likelihood are:

- The occurrence of an injury or illness does not have to be more probable than not in order for the likelihood to be designated as reasonably likely.
- For a citation that is being designated as S&S, there needs to be significantly more detail provided in the description, particularly with regard to the expected injury, than a citation that is designated as non-S&S.
- The inspector should consider the nature of the mine specific conditions as well as the history of injury and illness related to this hazard throughout the industry.
- Redundant features that provide an added measure of safety are not to be considered in the evaluation of reasonable likelihood. These redundant measures cannot be used in lieu of or replacement for the condition or practice cited.
- Only a violation of a "mandatory health or safety standard" can be designated as S&S. Violations of 30 CFR § 50.10 and Parts 46, 47, 48, 49, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90 can be designated as S&S.
- Violations of requirements in 30 CFR Parts 40, 41, 43, 44, 45, or 50 (except § 50.10) cannot be designated as S&S because they are regulations, not mandatory health and safety standards. For these violations, Gravity will be marked as:
  - Item 10A,  $\Box$  "No Likelihood".
  - Item 10B,  $\Box$  "No Lost Workdays".
  - Item 10C, □ S&S shall be checked "No".
  - Item 10D, □ "Number of Persons Affected" as "000".
- Violations of sections of the Mine Act other than Titles II and III, without an accompanying mandatory health or safety standard, also cannot be designated as S&S. Enter the following into the Condition or Practice section of the 7000-3 Form for these violations:

"The condition has been designated as "non-significant and substantial" because the conduct violated a provision of the Mine Act other than a mandatory safety or health standard."

#### Examples of properly evaluated violations

- A. (30 CFR § 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards) *Persons were working next to the stacking conveyor while it was in motion. They were reasonably likely to come in contact with and be injured by the unguarded moving machine parts of the #2 self-cleaning tail pulley.* (Reasonably Likely; Permanently Disabling; S&S Yes)
- B. (30 CFR § 56/57.14107 or § 77.400) A guard was not provided on the #2 selfcleaning tail pulley of the stacking conveyor. Persons did not work or travel in the area on any shift while the machinery was running. The conveyor was turned off and locked out when maintenance was performed. (Unlikely; Permanently Disabling; S&S - No)
- C. (30 CFR § 56/57.14107 or § 77.400) A guard was not provided on the #4 selfcleaning tail pulley adjacent to the walkway. Persons were not in the area and the tail pulley was not in operation at this time. However, persons had been in the area and the equipment had been operating on the previous shift with the guard off. The tail pulley was not out of service, however, and it was scheduled to operate when night shift operations began later today. Personnel travel on the walkway next to the energized tail pulley during the night shift. (Reasonably Likely; Permanently Disabling; S&S - Yes)

#### Standard, Hazard, Exposure, Injury, and Negligence (SHEIN)

SHEIN is a useful acronym to address each of these five essential elements to detail violation of a mandatory health and safety standard. In order to properly document the condition or practice in the body of the citation, provide the following:

- *Standard*. Provide a description of the condition or practice that constitutes the violation of a mandatory health and safety standard with the location or equipment identified where the violation exists.
- *Hazard*. Describe the hazard that reasonably causes or contributes to injury or illness of a miner.
- *Exposure.* Describe exposure of miners to a hazard, how many are exposed and over what time period does the exposure exist.
- *Injury.* Explain the type and severity of injury that could reasonably be expected from the hazard.
- *Negligence*. Define the extensive or obvious nature of the violation and

how long it existed. Determine through observation and records who was aware or should have been aware of the violative condition and degree of risk to miners.

#### D. Number of Persons Affected:

Enter the number of persons affected if the injury or illness occurred or were to occur.

#### **Affected verses Exposed:**

AFFECTED: Influenced in a harmful way; impaired, harmed.

*EXPOSED*: Vulnerable; open to danger.

It is important not to confuse the "Number of Persons Affected" by a condition or practice that is being cited with the number of persons exposed to the condition or practice. The number of persons exposed is not entered on the Form, but it often can be used in evaluating the likelihood that an event will cause an injury or illness. When evaluating the number of persons affected focus on the number of persons that would be harmed if the expected injury or illness occurs. That is the "Number of Persons Affected".

#### Considerations may be:

- What is the number of persons who could be expected to be harmed from the condition that is observed?
- What is the type of injury or illness that could be expected from the condition that is observed? This should be based on the evaluation you made on the gravity section and the hazard associated with it.
- What is the likelihood that one or more persons would be injured or receive an illness from the condition that is observed?

In most cases, this evaluation will be easy and a correct decision can be made. Other times it will take careful evaluation to determine the correct number of people affected. The evaluation will require knowledge of the mine and its mining history in general and using sound reasoning in connecting several different factors.

• If the condition occurred, how many people would this condition cause damage or injury to?

#### Example:

The inspector found that the hoist elevator could fail due to one of the safety devices not being maintained. The hoist is normally loaded with five miners when it is being lowered into the mine. It's reasonable that the number of persons exposed could easily be evaluated as all five miners or could be the number of miners that travel up and down in the hoist, per shift, each day. But if the hoist failed and dropped to the bottom of the shaft, it would only affect the five miners at the time the hoist failed. So, only five would be injured if the accident occurred, not everyone that used the hoist that day.

#### 11. Negligence:

Negligence is defined as conduct, either by commission (a command or instruction) or omission (failure to address) which falls below a standard of care established under the Mine Act to protect miners against the risks of harm. Under the Mine Act, an operator is held to a high standard of care. A mine operator is required to be on the alert for conditions and practices in the mine that affect the safety or health of miners and to take steps necessary to correct or prevent hazardous conditions or practices. The failure to exercise a high standard of care constitutes negligence.

Document all reasoning for degree of negligence in detail in your inspection notes.

(The degrees of negligence are defined in 30 CFR § 100.3 (d) as follows)

#### NO NEGLIGENCE (None)

The operator exercised diligence and could not have known of the violative condition or practice.

#### LOW NEGLIGENCE $\square$

The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances.

#### Consider:

- Actions taken to minimize or eliminate access
- Parts ordered
- Temporary controls (out of service)
- Barricades or other protective measures
- No notice/violation history
- Engineering control systems provided/maintained

- Appropriate PPE provided
- Specific training

### MODERATE NEGLIGENCE

The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.

#### Consider:

- Reason to know
- Some notice/violation history
- Noted or reported
- Engineering control systems provided/maintained
- Appropriate PPE provided
- Specific Training

### HIGH NEGLIGENCE $\square$

The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances.

#### Consider:

- Operator Knew Who and How did they know (documented in notes)
- Condition is obvious and extensive
- Extensive notice/violation history
- Failed to take safety precautions
- Indifferent to a known violation
- Who and How did they know (documented in notes)

#### **RECKLESS DISREGARD** $\square$

The operator displayed conduct which exhibits the absence of the slightest degree of care.

#### Consider:

• Mine operator fully aware of the violative condition and made **NO** effort to protect miners for unsafe conditions.

Unwarrantable failure has been defined as aggravated conduct constituting

more than ordinary negligence. Accordingly, when citing a violation with "high" negligence, the inspector also must evaluate whether aggravated conduct exists to determine if the violation also is an unwarrantable failure to comply.

# Factors inspectors should evaluate when determining *"aggravated conduct"* may include the following:

- 1. The violative condition or practice posed a high degree of danger to miners.
- 2. The violative condition or practice was obvious and/or extensive.
- 3. The violative condition or practice had existed for a length of time.
- 4. Repeated similar violations have been cited at the mine or to the contractor in the recent past.
- 5. An agent of the operator or contractor was aware of the existence of the hazard.
- 6. The operator knew or had reason to know that its action(s) violated a mandatory standard.
- 7. The violative condition or practice had been reported to the operator or contractor or agent who then allowed it to exist, without correcting or adequately addressing the problem, for a period of time.
- 8. The violation was a result of deliberate activity by the operator.
- 9. Reasonable efforts were not made by the mine operator or contractor to prevent or correct the hazard.

Other factors, not enumerated above, resulted in a negligence evaluation by the inspector of "high" or "reckless disregard".

- Any one of the circumstances above **may** constitute sufficient grounds for an unwarrantable failure citation or order.
- Inspectors must include detailed factors and explain how the operator engaged in aggravated conduct in the Condition or Practice section of the Mine Citation/Order Form when issuing a section 104(d) citation or order. The operators agent should be identified by position not name.

#### **12.** Type of Action: □

Enforcement Action Type (Select which action is being taken [e.g, 104(a), 104(b) of the Mine Act].)

#### 13. Type of Issuance:

(Select the appropriate type. Safeguard is for underground coal mines only.)

Citation Order Safeguard Written Notice

#### 14. Initial Action:

(Select the type citation and order number and the IAS will self-populate.) (Safeguard is for underground coal mines only.)

A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Date

#### **15. Area or Equipment:**□

This pertains to orders of withdrawal only, which are under 104(b), 104(d)(1), 104(d)(2) 104(e), 104(g)(1), 107(a), 103(j) and 103(k) of the Mine Act. Indicate the area or equipment, or in case of a 104(g)(1) order, the person. The area should be that area from which the employees shall be withdrawn until the dangerous conditions and causes of those conditions have been corrected. Equipment should be identified by manufacturer, model, serial number (if known), color and name, etc. Also, note here if it is ordered removed from service. In the case of a 104(g)(1) order, put the untrained miner's name here. Use the phrase: "*No Area Affected*" if this is a technical order of withdrawal such as a 104(b) Order for failure to complete Part 50 employment or injury reporting reports.

#### 16. Termination Due:

(The abatement time and date is set to correct the condition or practice. The termination due date is left blank if it is an orders.)

A. Date  $\Box$ 

B. Time 🗆

#### **Section III- Termination Action**

#### **17.** Action to Terminate: □

(Describe in detail the specific action(s) taken to correct the cited condition(s) or practice(s) which justifies termination. Do not use short phases like: "It's been corrected", "It's been fixed".

#### 18. Terminated:

A. Date  $\square$ B. Time  $\square$ 

#### Section IV- Automated System Data

**19. Type of Inspection:** □ (Auto-generated)

**20. Event Number:** □ (Auto-generated)

#### **21. Primary or Mill:** □ (MNM mines only)

(Letter "P" if the violation occurred in the production or primary mining phase of the operation. Generally, an entry of "P" includes activities and/ or equipment from the mining site up to, but not always including, milling processes.)

**Exception:** Violations cited at freestanding mills with a separate Mine ID number should have "P" entered in the space.

**22. AR Name:** □ (Auto-generated)

23. AR Number: □ (Auto-generated)

### CHAPTER 3 – SELECTED PROVISIONS OF THE MINE ACT

#### Section 103(a): Denial of Right of Entry

#### Denial of Entry - Established MSHA Mine ID Number

When a mine operator or its agent directly refuses to allow an inspector entry to an active mining operation having an MSHA mine ID number, the inspector must immediately contact their supervisor. The supervisor shall immediately attempt to contact the mine operator and attempt resolution, along with contacting the district office. If a citation is issued, the inspector must either hand deliver or mail the citation to the mine operator certified mail, return receipt requested.

**Note:** In the rare instances these types of violations are issued, supervisors should discuss them with the district office and/or regional solicitor prior to issuance. These types of violations are frequently litigated and are often contentious so consultation and coordination prior to issuance will assure that everyone understands the situation and are in agreement with the actions being taken.

#### Denial of Entry - No Established MSHA Mine ID Number

The inspector must notify his or her supervisor to determine whether or not the mining operation falls under the jurisdiction of the Mine Act. If it is subsequently determined that the operator is engaged in mining or milling activities and if entry is denied to a mine that does not have an MSHA mine ID number, a mine ID number should be obtained based on the information that has been acquired.

After the mine ID number has been obtained, the field office supervisor and inspector should return to the mine, or make arrangements to meet with the mine operator, and request access under the provisions of the Mine Act.

#### Other Forms of Denial of Entry

Denial of right of entry procedures also apply when inspectors have been granted entry but are not allowed to inspect or to continue an inspection or investigation. These procedures apply to any type of interference whether it be delay, harassment, or personal assault.

In all such cases, except personal threats or assault, the inspector should try to communicate with the mine operator, explaining the entry and inspection rights of MSHA under Section 103(a) of the Mine Act.

MSHA policy requires that an inspector leave the scene when an apparent violation of Section 111 of Title 18 of the United States Code is about to occur. To avoid a confrontation, inform the person(s) involved that an attack on an MSHA inspectoris a federal crime and that they may be subject to arrest. If the inspector believes that he/she is subject to physical harm or assault, he/she should leave the property immediately and promptly notify their supervisor.

### Section 104(a) Citation: Denial of Right of Entry

### Notes: 104(a) Citation of Denial of Entry

**Item #8.**  $\Box$  <u>Condition and Practice must have the statement</u>: This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the Mine Act rather than a mandatory safety and health standard.

**Items # 9 B** □ is completed with 103(a)

**Item #10** □

A - No Likelihood B - No Injury C - S&S No D - 0 Persons Affected

**Item #12**.  $\Box$  Type of action is 104(a).

**Items #16.** □ Abatement time should remain short.

**Note:** Regional SOL should be contacted by the district.

# Section 104(a) Citation: Denial of Right of Entry

Section I-Violation Data 1. Date Mo Da Yr 4/162020 4. Served To Raymond Hard 6. Mine Hidden Hill Pit		
4/162020 4. Served To Raymond Hard 6. Mine	O THE OLD OLD IN	
6. Mine	2, Time (24 Hr. Clock) 0806	3. Citation/ Order Number 9000008
6. Mine Hidden Hill Pit	wood, Owner	5. Operator Hidden Hill Gravel Inc.
	••••••••••••••••••••••••••••••••••••••	7. Mine ID (Contract 99-02285
8. Condition or Practice		8a. Written Notice (103g)
Hardwood stated he woul that a search warrant was	d not allow an inspector of MSH not necessary and refusal to allo en designated as significant and a	(nc., refused to allow an authorized representative to enter the mine. Mr. HA to enter his property without a search warrant. Mr. Hardwood was advised ow the inspection was in violation of 103(a) of the Mine Act. substantial because the violation is a provision of the Mine Act, rather than a
9. Violation A. Health	B. Section	See Continuation Form (MSHA Form 7000-3a)
Safety Other	of Act 103-a	Title 30 CFR
Section II-Inspector's Evaluation 10. Gravity:		
A. Injury or Illness (has) (is):	No Likelihood 🖌 Unlikely	y 🗌 Reasonably Likely 🗌 Highly Likely 🗍 Occurred 🗍
<li>B. Injury or illness could reasonably be expected to be</li>		Lost Workdays Or Restricted Duty Permanently Disabling Fatal
C. Significant and Substanti	5	D. Number of Persons Affected: 000
11. Negligence (check one)	A. None B. Low D	C. Moderate D. High 🗹 E. Reckless Disregard 🗌
12. Type of Action		of Issuance (check one) Citation 🖌 Order 🗌 Safeguard 🗋 Written Notice
14. Initial Action	104(d)	E. Citation/ F. Dated Mo Da Y
A. Citation B. Order	C. Safeguard D. Written Not	
16. Termination Due A. Dat	e Mo Da Yr 4/16/2020 B. Time (24 H	Hr. Clock) 0836
Section III-Termination Action		
17. Action to Terminate		
	o Da Yr B. Time (24 Hr. Clock)	;)
A. Date		
A. Date Section IVAutomated System Data		21 Primary or Mill
18. Terminated     A. Date     M       Section IV-Automated System Data     19. Type of Inspection (activity code)     E01	20. Event Number 1000124	21. Primary or Mill 23. AR Number

#### Section 104(b) Order: Denial of Entry

A Section 104(b) order of withdrawal must be issued if the operator still refuses entry after a Section 104(a) citation has been issued. Injunctive proceedings may be recommend by the District Manager if the operator does not comply with the order.

**Note:** In the rare instances these types of violations are issued, supervisors should discuss them with the district office and/or Regional Solicitor prior to issuance. These types of violations are frequently litigated and are often contentious so consultation and coordination with all parties prior to issuance will assure that everyone understand the situation and are in agreement with the actions being taken.

### Notes: 104(b) Order of Denial of Entry

**Item #8.**  $\Box$  Condition and Practice must have the statement: This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the mine act rather than a mandatory safety and health standard.

**Items # 9 B** □ is completed with 103(a)

Item #10 🗆

A - No Likelihood B - No Injury C - S&S No D - 0 Persons Affected

**Item #12**.  $\Box$  Type of action is 104(b).

**Items #16.** □ No abatement time.

**Note:** Regional solicitor should be contacted by the district.

# Section 104(b) Order: Denial of Right of Entry

	ion/Orde	r								tment of I and Heal		inistrati	on 🕼
Section IViola			1										
1. Date	Mo Da 4/16/		2. Time (2	4 Hr, (	0922				3	. Citation/ Order Num	ber	90	00008
4. Served To	Raymo	ond Har	rdwood,	Owne	er	5. Op	erato		Hidden	Hill Gr	avel	Inc.	
6. Mine		Hidd	en Hill	Pit		7. Mi	ne ID	99-0	2285				(Contractor
8. Condition	or Practice										8a.	Written N	lotice (103g)
represe the min Health	e in ac	e to en	iter the	e Hid h the	dden Hill Pit 2 requirement	, for t s of Se	he p	ourpo on 10	se of co 3(a) of	onductin the Fed	g an leral	inspec Mine \$	ction of Safety and
9. Violation	A Healt	<u> </u>	B. Section			C. Part/Se	ction			See Contin	uation For	m (MSHA	Form 7000-3a)
a. violation	A. Healt Safe	ty 🗖	of Act		102/21	C. Part/Se Title 30		,					
Section IIInsp		ualion			103(a)								
10. Gravity:			NI- 1 001-		Usbah D	D	h-t-		r			~	
	or Illness (h or illness co		No Likeliho					Likely		ghly Likely [		Occurre	
	be expec		No Lost	Work	days 🖸 🛛 Lost W	orkdays Or	Restr	icted Du		Permanently			Fatal
C. Signific	ant and S	ubstantial	: Yes		No []				D.	Number of F	Persons A	Affected:	
11. Negligen	ce (check	one)	A. None	]	B. Low	C. Moderate	• 🗆	ſ	D, High 📋	E. 1	Reckless	Disregar	d 🗌
12, Type of A	ction	1	.04 (b)		13. Type of Issu	ance (checl	k one)	Cita	tion [] (	Drder 🔽	Safeguar	rd 📋	Written Notice [
14, Initial Act						E. Cit					F. D	ated	Mo Da Yr
	·····	rder 🛄	C. Safegua	rd 🛄	D. Written Notice		der Nu	mber	900	00006			4/16/202
15. Area or E No Area		ted											
16. Terminat	ion Due	A. Date	Mo Da	Yr	B. Time (24 Hr. Clo	ck)			1				
Section III Ter	mination Act				D. Time (24 Til. 010				l				
17. Action to													
18. Terminat	ed A. Dat	e Mol	Da Yr	B. Tim	e (24 Hr. Clock)								
Section IVAut	omated Sys	tem Dala						L					
19. Type of In (activity of		E01	20. Event	Numb	er 1000124		21. F	rimary c F					
22, AR Name					1000101		1			23. AR N	umber		
					h the provisions of the Sr		0.			1	0.11. 0		
enforcement ac enforcement ac Street, SW M	lational Sma clions. The C clions of MS C 2120, Was	II Business Ombudsma HA, you ma shington, D	and Agricultu In annually evi Iy call 1-888-F C 20416, Ple	re Regu aluates EG-FAI ase note	In the provisions of the 5 latory Ombudsman and enforcement aclivities an IR (1-888-734-3247), or w a, however, that your righ ain a hearing before the F	10 Regional F d rates each a rite the Ombu t to file a com	aimes agency udsma menl w	Boards I s response at Small ith the Or	lo receive com siveness lo sn I Business Adr mbudsman is	ments from sm nall business. ministration, Ol in addition to a	nall busine If you wish fice of the	sses abou to comme National C	il federal agency int on 1 Imbudsman, 409 3

#### Section 103(j): Order of Withdrawal

# A. Enforcement personnel shall consult with the appropriate District Manager before issuing 103(j) orders of withdrawal.

In the event of a mine accident where rescue and recovery work is necessary, MSHA is authorized to take any action deemed appropriate to protect the destruction of evidence which would assist in the investigation of the cause or causes thereof, including supervising and directing any mine rescue and recovery effort. The mine operator is required to take measures to prevent destruction of evidence that could assist accident investigators.

#### B. Additional documentation required with issuance.

If needed.

#### C. Modifications and Terminations.

The District Manager directs the modification and termination of the 103(j) orders.

#### Notes: 103(j) Orders

**Item #8.** □ Condition and Practice must describe the hazard and clearly state the prohibited activity.

**Items # 9** and **#10.** □ Not completed.

**Item #12.** □ Type of action is written in as 103(j).

Item #13. 
Select Order

Item #15. 
Describe the "Area or Equipment" affected; must be clearly identified.

Item #16, #17 and #18. 
Are not completed

**Note:** These issuances are only appropriate under the direction of the District Manager.

## Section 103(j): Order of Withdrawal

Section IViolati	ion Data				wine Safe	ety and Health Adm	mistration V
1. Date	Mo Da Yr	2. Time (24 Hr. 0				3. Citation/ Order Number	9000002
4. Served To	4/1/2019 Adriene Ja	ckson, Under	0235 caround	5. Operator	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	Order Number	900002
	Superinten		.9104114			Air Mining	(2) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )
6. Mine	Helium	N Undergroun	d	7. Mine ID	9-09876		(Contractor)
8. Condition o				-			.Written Notice (103g)
drift NH prior to backup (	E4, and were o the syster team in rout til a backup	e in communi n failing. T te from a di	cation with t here is one 6 fferent locat	the shift for 5 man mine re tion. All per	reman on escue tea rsons are	m available on prohibited fr	er radio system
9. Violation	A. Health	B. Section of Act		C. Part/Section of Title 30 CFR		See Continuation Fo	orm (MSHA Form 7000-3a) 🔲
0	Other  Ot						
Section IIInspe 10. Gravity:	ector's Evaluation						_
	r Illness (has) (is): r illness could rea-	No Likelihood		Reasonably L	<u>,                                     </u>	Highly Llkely	
	be expected to be	No Lost Work	idays 🔲 Lost W	/orkdays Or Restrict	ed Duty	Permanently Disabli	
C. Signific	ant and Substantia	l: Yes 🗌	No 🗌			D. Number of Persons	Affected:
11. Negligenc	ce (check one)	A. None	B. Low	C. Moderate	D. High [	E. Reckles	s Disregard
12. Type of A	ction	103(j)	13. Type of Issu	ance (check one)	Citation	Order 🕢 Safegua	ard 📋 Written Notice 🗌
14. Initial Acti			D. Without Notice [	E. Citation/ Order Num	hor	F.	Dated Mo Da Yr
A. Citation 15. Area or E		C. Sateguard	D. Written Notice		061	I	
		s all underg	ground areas o	of this mine			
16. Terminati	on Due A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ck)			
Section IIITerr			-J				
17. Action to	Terminate						
18. Terminate	<sup>ed</sup> A. Date <sup>Mo</sup>	Da Yr B. Tin	ne (24 Hr. Clock)				
Section IVAut	omated System Data						
19. Type of Ir (activity c		20. Event Numb	er 1000123	21. Prir	mary or Mill		
22. AR Name						23. AR Number	
MCHA Form 70	00-3, Apr 08 (revised)	In accordance w	th the provisions of the S	mall Rusiness Regulato	ry Enforcement F	Fairness Act of 1996, the St	mall Business Administration ha
enforcement ac enforcement ac Street, SW MO	tions. The Ombudsm tions of MSHA, you m C 2120, Washington, I	an annually evaluates ay call 1-888-REG-FA DC 20416. Please no	enforcement activities an IR (1-888-734-3247), or	nd rates each agency's i write the Ombudsman a nt to file a comment with	responsiveness to t Small Business the Ombudsmai	o small business. If you wis Administration, Office of the n is in addition to any other	resses about federal acency sh to comment le National Ombudsman, 409 3 rights you may have, including

#### Section 103(k): Order of Withdrawal

In the event of a mine accident, MSHA may issue orders deemed appropriate to ensure the safety of any person at the mine. The operator of that mine shall obtain the approval of the MSHA representative, in consultation with state mining agency representatives (if appropriate), regarding any plan to recover any person in the mine, to recover the mine, or to return affected mining areas to normal operations.

#### Notes: 103(k) Order of Withdrawal

**Item #8.**  $\Box$  Condition and Practice must describe the hazard and clearly state the prohibited activity.

**Items # 9 and #10.** □ Not completed.

**Item #12**.  $\Box$  Type of action is 103(k).

Item #15. 
Area and equipment must be clearly identified.

Items #16, #17 and #18. 
Not completed

Note: These issuances are only appropriate under the direction of the District.

## Section 103(k): Order of Withdrawal

Mine Citati	on/Order					epartment of	Labor alth Administrat	ion 🚯
Section IViola	tion Data				IVINIC O	arely and rice	aini Authiniatiat	
1. Date	Mo Da Yr 4/1/2020	2. Time (24 Hr. C	Nock) 0711			3. Citation/ Order Nu	mber 90	00003
4. Served To		ian, Mine Ma		5. Operator				00000
						Air Min	ing	
6. Mine	Heliu	m Undergroun	d	7. Mine ID 9	9-09876			(Contractor)
8. Condition				April 1, 2020				Notice (103g) 🗌
safety determi shall o	of all pers ned it is s btain prior	ons in the r afe to resum	ail load out e normal min om an author	ad out convey building and ing operation ized represen area.	l 120 cc s in th	nveyor tu nis area.	nnel until I The mine op	MSHA has erator
9. Violation	A. Health	B. Section of Act		C. Part/Section of Title 30 CFR		See Cont	inuation Form (MSHA	Form 7000-3a)
	ector's Evaluation							
10. Gravity: A. Injury c	r Illness (has) (is);	No Likelihood 🔲	Unlikely	Reasonably Li	kely	Highly Likely	Occurr	ed 🔲
B. Injury o	r illness could rea-	No. Land. Marale	davs 🗍 Lost V	Workdays Or Restricte			ly Disabling	Fatal
	be expected to be ant and Substantia		· · · · · · · · · · · · · · · · · · ·	volkaya or ricalion			Persons Affected:	
		res 🗋	No 🗌					
	ce (check one)	A. None	B. Low	C. Moderate	D. High		. Reckless Disrega	
12. Type of A		103(k)	13. Type of Iss	uance (check one)	Citation	Order	Safeguard	Written Notice
<ol> <li>Initial Act A. Citation</li> </ol>		C. Safeguard 🗖	D. Written Notice	E. Citation/	er		F. Dated	Mo Da Yr
15. Area or E Rail lo		and the 120	conveyor tu	nnel				
16. Terminati	on Due A. Dati	Mo Da Yr	B. Time (24 Hr. Ch	ock)				
Section III Terr	nination Action		1		1			
17. Action to	Terminate							
18. Terminat	ed A. Date Mo	Da Yr B Tim	e (24 Hr. Clock)					
	omated System Data	0.10	- ( III, Oloon)					
19. Type of Ir	spection	20, Event Numbe		21, Prim	ary or Mill			2003
(activity c 22. AR Name			1000123	I	P		Number	
ZZ. An Maine								
established a N enforcement ac	tions. The Ombudsm tions of MSHA, you m C 2120, Washington,	ss and Agriculture Regu han annually evaluates e hay call 1-888-REG-FAI DC 20416, Please note	latory Ombudsman and enforcement activities a R (1-888-734-3247), or e, however, that your rig	Small Business Regulator 10 Regional Fairness Bc and rates each agency's re write the Ombudsman at ht to file a comment with Federal Mine Safety and	ards to receiv sponsiveness Small Busine the Ombudsm	to small business s to small business ss Administration, a nan is in addition to	small businesses abo If you wish to comm Office of the National	ut federal agency ent on the Ombu d

## Section 103(k): Order of Withdrawal (Modification)

Mine Citation/Orde Continuation				, 		>
Section I-Subsequent Acti 1. Subsequent Action 1		Mo Da	Yr 3. Citation/ Order Number 9	000003 - 01		
	Martian, Mine Manager	11 Issue) 04/01/202	5. Operator			
6. Mine Helium Un	derground		Air Mining 7. Mine ID		(Contractor)	
Section II-Justification for	Aclion		99-09876			
Change	From		То			
Justification All electrical power s	Load out and the 120 conveyor ources have been identified		owing access for emergence	y crews to enter the	rail load out	
area and the 120 conv	veyor tunnel.					
					_	
Section III-Subsequent Act	ion Takan		,		See Continuation Form	]
8. Extended To A. Date	IL D. V. I	4 Hr. Clock)	C. Vacated	D. Terminated	E. Modified	
Section IV-Inspection Data					······	
9, Type of Inspection E07	10. Event Numb 1000123					
11. AR Name			2. Date Mo Da Yr 94/01/2020	13. Time (24 Hr. Cl 07:22	ock)	
MSHA Form 7000-3a, Mar	85 (revised)					

### Section 103(k): Order of Withdrawal (Termination)

Section I-Subsequent Action/Contin		1							
1. Subsequent Action 1a. Cont	inuation	2. Dated (Original	Mo Issue) 04/0	Da Yr 1/2020	3. Citation/ Order Nun	nber 90000	03 - 02		
4. Served To Monty Martian	Mine Man	iger	0 1/0	5. Opera					
6. Mine Helium Undergrou	ind			7. Mine	D		<u></u>	(Contrac	tor)
Section II-Justification for Action				99-098	376				
The rail load out and 120 operations in the affected	l conveyo l area.	r tunnel has	s been inspec	cted and it ha	s been deter	mined tha	t it is safe to	o resume nor	mal
8. Extended To A. Date Mo	n Da Yr	B. Time (24	Hr. Clock)			cated 🔽	D. Terminated	E. Mod	ified
Section IV-Inspection Data		D. H/H6 (24	Oldeky				e. reminateu		
9. Type of Inspection		event Number							
E07 11. AR Name	100	0123	AR Number	12. Date	Mo Da		Time (24 Hr. 0	Clock)	
MSHA Form 7000-3a, Mar 85 (revis	ed)			04/07/20	020	08	:47		

#### Section 104(a): Citation

If, upon inspection or investigation, an inspector believes that a mine operator subject to the Mine Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she shall, with reasonable promptness, issue a citation to the mine operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of the Mine Act.

1	Jotes: <b>104(a</b> )	) Citation
		ly state how the standard was violated, lent/incident occur and explain the
<b>Item #10 – C</b> □ S&S is yes when a	violation is	deemed: Lost Workdays or Restricted Duty
Reasonably Likely Highly Likely	AND	Permanently Disabling

### Section 104(a): Citation Non-S&S

Section I-Violati	on Data		Willie Salety	and Health Admi	motration	
1. Date	Mo Da Yr 4/12/2020	2. Time (24 Hr. Clock) 0925			ation/ der Number	900327611
4. Served To	Darryl Lark, L		5. Operator	Bird Mi	ining LLC	
6. Mine	Cracked Corn	Pit	7. Mine ID	99-08754		(Contractor)
8. Condition or	Practice	·····			8a, Writt	en Notice (103g)
	for service.	ole is located about 4 feet beh	ind a nandrall, and this a	rea is only accessed	a when the pump is	de-energized and
				Si	ee Continuation Form (MS	SHA Form 7000-3a)
9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	56.12	2004	
11. Negligenca 12. Type of Ac 14. Initial Actic A. Citation 15. Area or Eq	tion n B. Order	A. None B. Low	C. Moderate 🗹 of Issuance (check one) btice 🗌 E. Citation/ Order Numk	D. High  Citation  Orde	nber of Persons Affect E. Reckless Disro r Safeguard F. Dated	egard 🗌 ] Written Notice [
<ol> <li>Termination</li> <li>Section IIITermination</li> <li>Action to T</li> <li>The cable</li> </ol>	ination Action erminate	Mo Da Yr 4/12/2020 B. Time (24 n vulcanizing tape, and receiv	10.30	tance test terminati	ing the above numb	ered citation.
18. Terminate	A. Date 4/12	Da Yr /2020 B. Time (24 Hr. Cloc	k) 10:17			
Section IVAuto 19. Type of Ins (activity co		20. Event Number 100099754	21. Prin	nary or Mill P		
22. Signature				2	23. AR Number	1991 A. W. M. M. MARINA MARINA
established a Na enforcement acti enforcement acti Street, SW MC	ons. The Ombudsma ons of MSHA, you ma 2120, Washington, D	In accordance with the provisions and Agriculture Regulatory Ombudsm annually evaluates enforcement acti y call 1-888-REG-FAIR (1-888-734-32 C 20416. Please note, however, that sed penalties and obtain a hearing beil	nan and 10 Regional Fairness Bo vities and rates each agency's re 47), or write the Ombudsman at your right to file a comment with	bards to receive comment esponsiveness to small bu Small Business Administ the Ombudsman is in add	Its from small businesses usiness. If you wish to co tration, Office of the Natio dition to any other rights y	about / mmen. on me nal Ombudsman, 409 3r

### Section 104(a): Citation S&S

Mine Citation/Order					U.S. Department of Labor Mine Safety and Health Administration				
Section IViolat	tion Data				Mino Odi				
1. Date	Mo Da Yr 4/13/2020	2. Time (24 Hr. C	Clock) 0908			3. Citation/ Order Number	90	00005	
4. Served To		Lamb, Leadma		5. Operator	a at 111	Mining Co		2012 and	
6. Mine				7. Mine ID		Mining Co	mpany	(Contractor	
8. Condition of		Star Blue			99-02285		8a. Written N	elies (102g)	
the inn electri exposed	er conducto cal shock h to water s	rs to mechan azards. The pray from th	zed 480 volt tical damage. cut cable wa te dust contr trly material	Miners acce s located in ol spray bar	ssing thi the wet	s area are e process area	exposed t a, and wa	o s directly	
						See Continuation	on Form (MSHA I	Form 7000-3a)	
9. Violation	A. Health	B. Section of Act		C. Part/Section of Title 30 CFR					
	Other					56.12	2004		
Section IIInsp 10. Gravity:	ector's Evaluation		10 <sup>-10-10</sup>	<b></b>					
	or Illness (has) (is):	No Likelihood	] Unlikely 🗌	Reasonably	Likely 🔽	Highly Llkely 🗌	Occurre	d 🗌	
	or illness could rea					100 C - 100 C		F-1-1 [7]	
			kdays 🛛 🛛 Lost '	Workdays Or Restrie	ted Duty	Permanently Dis	sabling L	Fatal 🔽	
	be expected to be cant and Substanti	e: No Lost Work		Workdays Or Restrie	ted Duty	D. Number of Pers			
C. Signific	y be expected to be cant and Substanti	e: No Lost Work al: Yes 🗹	No 🗌			D. Number of Pers	ons Affected:	001	
C. Signific	y be expected to be cant and Substanti ce (check one)	e: No Lost Work al: Yes ☑ A. None □	No  B. Low	C. Moderate	D. High	D. Number of Pers	ons Affected: kless Disregar	001 d 🗌	
C. Signific 11. Negligen 12. Type of A	y be expected to be cant and Substanti ce (check one) Action	e: No Lost Work al: Yes 🗹	No  B. Low	C. Moderate Z uance (check one)		D. Number of Pers	kless Disregar	001 d 🔲 Written Notice [	
C. Signific	y be expected to be cant and Substanti ce (check one) Action	al: Yes 🛛 A. None 🗌 104 (a)	No  B. Low	C. Moderate 🔽 suance (check one) E. Citation/	D. High Citation [/]	D. Number of Pers	ons Affected: kless Disregar	001 d 🗌	
C. Signific 11. Negligen 12. Type of A 14. Initial Act	y be expected to b cant and Substanti ce (check one) Action	al: Yes 🛛 A. None 🗌 104 (a)	No  B. Low  13. Type of Iss	C. Moderate 🔽 suance (check one) E. Citation/	D. High Citation [/]	D. Number of Pers	kless Disregar	001 d 🔲 Written Notice [	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation	y be expected to b cant and Substanti ce (check one) Action	al: Yes 🛛 A. None 🗌 104 (a)	No  B. Low  13. Type of Iss	C. Moderate 🔽 suance (check one) E. Citation/	D. High Citation [/]	D. Number of Pers	kless Disregar	001 d 🔲 Written Notice [	
C. Signific 11. Negligend 12. Type of A 14. Initial Act A. Citation 15. Area or E	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment	a: Yes 🗹 A. None 🗌 104 (a) C. Safeguard 🗌	No  B. Low  13. Type of Iss	C. Moderate 🔽 suance (check one) E. Citation/	D. High Citation [/]	D. Number of Pers	cons Affected: kless Disregar	001 d 🔲 Written Notice [	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment	A. None 104 (a) C. Safeguard Mo Da Yr	No  B. Low  13. Type of Iss	C. Moderate [] suance (check one) E. Citation/ Order Nur	D. High Citation <table-cell></table-cell>	D. Number of Pers	cons Affected: kless Disregar	001 d 🔲 Written Notice [	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action	2: No Lost Work al: Yes  A. None  104 (a) C. Safeguard	No  B. Low  I. I. Type of Iss D. Written Notice	C. Moderate Z uance (check one) E. Citation/ Order Nur	D. High Citation <table-cell></table-cell>	D. Number of Pers	cons Affected: kless Disregar	001 d 🔲 Written Notice [	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The case	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action Terminate De was repo	No Lost Work           a:         Yes 2           A. None	No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl	C. Moderate Z suance (check one) E. Citation/ Order Nur ock) 1000	D. High Citation [2] nber	D. Number of Pers	kless Disregard	001 d 🗌 Written Notice [ Mo Da Yr	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The case	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action Terminate ole was repa- iting the al	a:     Yes I       A. None	No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl	C. Moderate Z suance (check one) E. Citation/ Order Nur ock) 1000	D. High Citation [2] nber	D. Number of Pers	kless Disregard	001 d 🗌 Written Notice [ Mo Da Yr	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The case	y be expected to be cant and Substanti ce (check one) Action B. Order Guipment ion Due A. Dat mination Action Terminate of was repair it ing the alt red A Data	e Mo Da Yr e Mo Da Yr e A/13/2020	No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl	C. Moderate tuance (check one) E. Citation/ Order Nur ock) 1000 and received	D. High Citation [2] nber	D. Number of Pers	kless Disregard	001 d 🗌 Written Notice [ Mo Da Yr	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat 17. Action to The cab terminat 18. Terminat	y be expected to be cant and Substanti ce (check one) Action B. Order Guipment ion Due A. Dat mination Action Terminate of was reparting the at the day Data M	e Mo Da Yr a. None 104 (a) C. Safeguard e Mo Da Yr 4/13/2020 aired vulcan: bove number (13/2020) aired Straight (13/2020) bove number (13/2020) bove	No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl izing tape, a citation.	C. Moderate uance (check one) E. Citation/ Order Nur lock) 1000 and received 1016	D. High Citation [2] nber a continu	D. Number of Pers	kless Disregard	001 d 🗌 Written Notice [ Mo Da Yr	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The cal terminat 18. Terminat Section IV-Au 19. Type of I	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action Terminate Die was repating the all ted A. Date 4/ tomated System Date	e Mo Da Yr a. None 104 (a) C. Safeguard e Mo Da Yr 4/13/2020 aired vulcan: bove number (13/2020) aired Straight (13/2020) bove number (13/2020) bove	No B. Low B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl izing tape, a citation. ne (24 Hr. Clock)	C. Moderate uance (check one) E. Citation/ Order Nur lock) 1000 and received 1016	D. High Citation [2] nber a continu	D. Number of Pers	kless Disregard	001 d 🗌 Written Notice [ Mo Da Yr	
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C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The cab terminat 18. Terminat Section IV-Au 19. Type of I (activity of 22. AR Nam	y be expected to be cant and Substanti ce (check one) Action B. Order California B. Order California Californi California California California California California Californ	a:     Yes       A. None	No B. Low D. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl izing tape, a citation. ne (24 Hr. Clock) Per 1000124	C. Moderate uance (check one) E. Citation/ Order Nur oock) 1000 and received 1016 21. P	D. High Citation [2] nber a continu a continu imary or Mill P	D. Number of Pers	istance t	001 d Written Notice [ Mo Da Yr	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The cal terminat 18. Terminat Section IV-Au 19. Type of I (activity of 22. AR Nam MSHA Form 7 established a 1 enforcement a enforcement a Street SW M	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action Terminate Die was repa tring the all tring the all tring the all tring the all tring the all tring the all tring the all tring tring the all tring tring the all tring the all tring the all tring the	a: No Lost Work al: Yes  A. None A. None A. None A. None C. Safeguard	No B. Low B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl izing tape, a citation. ne (24 Hr. Clock)	C. Moderate uance (check one) E. Citation/ Order Nur order Nur order Nur 1000 and received 1016 21, P Small Business Regula d 10 Regional Fairness Small Fairness and rate sea Agency' rwite the Ombudsmar	D. High Citation [2] nber a continu imary or Mill P tory Enforcement Boards to receive responsiveness at Small Busines	D. Number of Pers	istance t build build bu	001 d Written Notice [ Mo Da Yr 	
C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to The cal terminat 18. Terminat Section IV-Au 19. Type of I (activity of 22. AR Nam MSHA Form 7 established a 1 enforcement a enforcement a Street SW M	y be expected to be cant and Substanti ce (check one) Action B. Order Equipment ion Due A. Dat mination Action Terminate Die was repa tring the all tring the all tring the all tring the all tring the all tring the all tring the all tring tring the all tring tring the all tring the all tring the all tring the	a: No Lost Work al: Yes  A. None A. None A. None A. None C. Safeguard	No B. Low B. Low I.3. Type of Iss D. Written Notice B. Time (24 Hr. Cl izing tape, a citation. ne (24 Hr. Clock) Per 1000124 th the provisions of the ulatory Ombudsman an enforcement activities. NR (1-88-734-3247), oc	C. Moderate uance (check one) E. Citation/ Order Nur order Nur order Nur 1000 and received 1016 21, P Small Business Regula d 10 Regional Fairness Small Fairness and rate sea Agency' rwite the Ombudsmar	D. High Citation [2] nber a continu imary or Mill P tory Enforcement Boards to receive responsiveness at Small Busines	D. Number of Pers	istance t build build bu	001 d Written Notice [ Mo Da Yr 	

#### Section 104(b): Order Failure to Abate

Inspectors should consider all circumstances when the time fixed for a citation's abatement has expired. In determining whether to issue a Section 104(b) order, the inspector must determine whether there is a reasonable basis for extending the abatement date. If an extension of time is not justified and the cited condition or practice is not abated, the inspector must issue a Section 104(b) order of withdrawal. Upon abatement of the condition or practice cited in the original citation, the order can be terminated.

### Notes: 104(b) Order Failure to Abate

**Item #8.**  $\Box$  Describes the operator's failure to abate the violation previously cited. Be sure to describe in detail the initial condition or practice.

**Item #9.**  $\Box$  Complete Item 9B or 9C with the appropriate section of the Mine Act if a section [e.g., Sections 103(j) or 103(k)] is violated, or with the standard violated.

**Items #10 and 11.**  $\Box$  Do not complete Items 10A through D or Item 11.

**Items #12 and 13.** □ Enter 104(b) in Item 12 and check the "Order" block in Item 13.

**Item #14.**  $\Box$  Check the "Citation" block in Item 14A; enter the initial citation number in Item 14E and the date of citation issuance in Item 14F.

**Item #15.**  $\Box$  Complete Item 15 "Area or Equipment" with the area or equipment affected by the order. Enter the phrase "No Area Affected" if this is a technical violation.

**Item #16.** Do not complete item 16A or B. Terminate the 104(b) order when the out of compliance condition(s) is/are corrected.

**Item #17.**  $\Box$  When terminating the B order the original citation will be terminated automatically in IAS.

# Section 104(b): Order of Withdrawal

	ion/Order					Department of Safety and Hea		istration
Section I-Viola	ation Data Mo Da Yr	2. Time (24 H	Hr. Clock)			3. Citation/		
	3/13/2020		0800			Order Nu	mber	9000002
<ol> <li>Served To</li> </ol>	John Doe, 1	Foreman		5. Operator	PINN/	ACLE MINING	COMPANY	Y LLC
6. Mine				7. Mine ID				(Contra
8. Condition		NACLE MIN	15		46-0181	6	8a. W	ritten Notice (103g
energiz	ed trailing	cable on	by the operato the company n lon at the time	umber 1 shutt	le car	(S/N 03132		
contrac		; cited 4	times in two :	years at mine	: 460181	.6 (4 to th	e operat	or, 0 to a
						See Cont	inuation Form (	(MSHA Form 7000-3a
9. Violation	A. Health Safety	B. Section of Act		C. Part/Section of Title 30 CFR	1			
Section IIInsp	Other  Other						5.517	
10. Gravity:	vr Illinone (hee) (in))	No Likelihood	Unlikely	Desservebb	Libraha 🗖	Davide I Berley		
-	or Illness (has) (is): or illness could rea-	and a second second second		Reasonably	-	Highly Llkely		Decurred
sonabl	be expected to be:	<u></u>	/orkdays D Lost	Workdays Or Restric	ted Duty	-	y Disabling	in a give right to be
C. Signific	cant and Substantia	l: Yes 🗌	] No 🗌			D. Number of	Persons Affe	ected:
11. Negligen	ce (check one)	A. None	B. Low	C. Moderate	D. Hig	jh 🗌 🛛 E.	Reckless Di	isregard
12. Type of A	totion 3	104 (b)	13. Type of Is:	suance (check one)	Citation [	Order 🗸	Safeguard	Written Noti
14. Initial Act A. Citation		0.0-(	D. Written Notice	E. Citation/ Order Nun		9000001	F. Date	ed Mo Da 3/13/2
15. Area or E 1 shut 16. Terminat	tle car (S/M	Mo Da Yr	)) B. Time (24 Hr. C					
Castles III To			B. Hittle (24 Hr. C	юск)				
17. Action to	mination Action Terminate		-	· · · · · · · · · · · · · · · · · · ·				
18. Terminat	ad Mo	Da Yr						
ro. reminal	A. Date	B.	Time (24 Hr. Clock)					
	tomated System Data	100 E 111						
19. Type of I (activity o		20. Event Nu	9000000	21. Pr	rimary or Mill			
22. AR Nam	3					23. AR	Number	Contraction of the second s
	000-3, Apr 08 (revised) National Small Busines	s and Agriculture F an annually evalua	e with the provisions of the Regulatory Ombudsman an ates enforcement activities I-FAIR (1-888-734-3247), o	d 10 Regional Fairness and rates each agency's r write the Ombudsman	Boards to rece responsivenes at Small Busin	eive comments from ss to small business ness Administration.	small business If you wish to Office of the Na	es about federal agen

# Section 104(a) Citation: Working in violation of 104(b) Order of Withdrawal

	ation Data			-		1 <u>1</u>			
. Date	<b>Mo Da Yr</b> 5/15/2020	2. Time	(24 Hr. Clock) 0700			ŝ	3. Citation/ Order Numbe	r 4	410188
. Served To		es, Sai	fety Director	5. C	perator	Whea	t Mining	Co.	
. Mine	6-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2		are rate. Advants-rate rationales	7. N	line ID	3800-1970-1970-1970-1970-1970-1970-1970-19		1010000	(Contractor
. Condition	or Practice	ne and	MITTT			5-12345		8a. Writte	n Notice (103g) 🗌
MSHA o servio trucks have f "sign:	on May 10, ce until a s at the p time to re ificant an	2020. crack lant c place d subs	104(b) order # This order re ed cab window n May 15, 2020 the window. Th tantial" becau a mandatory sa	equired was re ). The his cor use the	d the epaire forem ditio e cond	loader t d. The l an state n has no uct viol	o be rem oader wa d that t t been d ated a p	noved f is load hey di lesigna	rom ing d not ted as
. Violation	A. Health Safety Other	B. Sectior of Act	104(b)	C. Part/S Title 30			See Continuati	on Form (MSF	IA Form 7000-3a) 🗖
ection IIIns 0. Gravity:	pector's Evaluation		10						
Constant Constant	or Illness (has) (is):	<ol> <li>2015/05/02/2019/12/2019</li> </ol>	ood 🗹 🛛 Unlikely 🗌	Rea	sonably Lik	ely 🗌 🛛 Hi	ghlyLlkely 🗌	Occu	rred 🗌
	or illness could rea- y be expected to be		st Workdays 🗹 🛛 Lost '	Workdays C	r Restricted	l Duty 🗌	Permanently Di	sabling 🗖	Fatal 🗌
C. Signifi	cant and Substantia	al: Ye	s 🗌 No 🗹			D.	Number of Pers	ons Affected	<b>1:</b> 001
1. Negliger	ice (check one)	A.None	B. Low	C. Modera	ie 🗌	D. High 🖌	E. Rec	kless Disreg	ard 🗌
2. Type of	Action	104(a)	13. Type of Iss	uance (che	ck one)	Citation 🗹 🛛	Drder 🗌 🛛 Sa	ieguard 🗌	Written Notice
4. Initial Ac A. Citatior		<i>i</i>	ard 🔲 D. Written Notice		itation/ rder Numbe	4410171		F. Dated	MoDa Yr
5. Area or l	25 <b>7</b> 4	0.00030				a			05/10/2020
6. Termina	tion Due A. Date	Mo Da	LB Lime (24 Hr. Cl	ock)					
ection IIITe	rmination Action	05/15	/2020		0730				
	Terminate								
8. Termina	A. Date	Da Yr	B. Time (24 Hr. Clock)						
ection IVAu 9. Type of (activity		20. Even	t Number 7777777		21. Prima	ary or Mill			
2. AR Nam	580 1050 1050 1958	-	Jimmy Johnson				23. AR Num	<b>ber</b> 5105	.0
	000-3, Apr 08 (revised National Small Busines	) In accor ss and Agricul	dance with the provisions of the s ure Regulatory Ombudsman and valuates enforcement activities a	d 10 Regional	Fairness Boa	ards to receive cor	nments from small	he Small Busir businesses ab	ess Administration ha out federal agency

### Section 104(d)(1): Citation

### Criteria for Issuing a 104(d)(1) Citation

104(d)(1) Citation shall be issued if:

- 1. there is a violation of a mandatory health or safety standard;
- 2. the violation significantly and substantially contributes to the cause and effect of a mine safety or health hazard; and
- 3. there is an unwarrantable failure of the mine operator or contractor to comply with the standard.

**Note:** A violation of a section of the Mine Act cannot be issued as a 104(d) citation or a 104(d) order even if the negligence evaluation is determined to be "high" or "reckless disregard". Violations of regulations at 30 CFR Parts 40, 41, 43, 44, 45, or 50 [excluding 50.10] also cannot be issued as 104(d) citations or orders even if the negligence evaluation is "high" or "reckless disregard". However, violations of interim mandatory health and safety standards found in Title 2 and Title 3 of the Mine Act, not superseded by mandatory health and safety standards, can be cited as S&S and evaluated as unwarrantable failure citations or orders based on the evaluations conducted in Items 10A and 10B of the Citation/Order form.

A violation is caused by an unwarrantable failure if it is determined that the mine operator or contractor has engaged in aggravated conduct constituting more than ordinary negligence.

### When determining "aggravated conduct", inspectors should consider whether:

- 1. the violative condition or practice was obvious or extensive;
- 2. the violative condition or practice had existed for a period of time;
- 3. similar violations have been issued at the mine or to the contractor in the recent past;
- 4. an agent of the operator or contractor had conducted an examination or had been in the area, or was aware of the existence of the condition;
- 5. the violative condition or practice had been reported to the operator or contractor who then allowed it to exist, without correcting or adequately addressing the

problem, for a period of time;

- 6. the individual who committed or allowed the condition or practice to exist was an agent of the operator, or an agent of a contractor;
- 7. reasonable efforts were not made by the mine operator or contractor to correct the violative condition or practice; and
- 8. other factors, not enumerated above, resulted in a negligence evaluation by the inspector of "high" or "reckless disregard".

### Notes: 104(d)(1) Citation

**Item #8**  $\square$  Identify the agent of the operator by position, only (exclude names) that knew or should have known of the violative condition or practice. The factors that explain how the operator or the Agent engaged in any of the factors could be considered for aggravated conduct.

*The following statement must be included in the violation narrative:* 

"This violation is an unwarrantable failure to comply with a mandatory standard."

**Items #10** C. □ Violation must be Significant and Substantial, "Yes".

**Items #12**  $\Box$  Type of Action, click 104(d)(1)

**Item #13** Check the "Citation" block

# Section 104(d)(1) Citation

obaioni i viola	tion Data							
1. Date	<b>Mo Da Yr</b> 4/7/2020	2. Time (24 Hr. Cl	<b>ock)</b> 0703			3. Citation/ Order Num	ıber	1000001
4. Served To	Big Ben, M	line Manager		5. Operator	Mea	abucks Mi	ning Co	
6. Mine		NO. 1		7. Mine ID	15-12345		ining oor	(Contract
8. Condition o	or Practice	NO. I			10-12040		8a. Writte	en Notice (103g)
to XC20 24 incher rollers to the s conditionand fire casual of the belt	of the act es in depth resulting touch. Ther hifts per d on will exp e hazards. observer. D t indicatin spection. T	ng both sides ively running , are tightly in frictional e are 10 mine ay, five days ose the secti These conditi ates, times, g the area has his violation	y belt, a di compacted heating, a ers working per week. on miners t ons are obv and initial d been exar	istance of 70 around and u as evidenced on the activ Based on cor to serious in vious, extens Ls for the Or nined by the	00 feet. A underneath by the me re section ntinued no njuries as sive and w n-shift ex certified	ccumulati the turn tal belt inby thi rmal mini sociated ould be e amination foreman	ons, meas ing botto rollers t s cited o ng practi with smok vident to are pres within on	suring up t om belt hat are ho condition, ces, this te inhalati o the most sent along he hour of
						See Contin	uation Form (MS	HA Form 7000-3a)
9. Violation	A. Health	B. Section		C. Part/Section of		000 00111		
	Safety ☑ Other □	of Act		Title 30 CFR		71	5.400	
Section IIInspe	ector's Evaluation	•						
sonably	r illness could rea- be expected to be ant and Substantia	No Lost Workd	ays ◘ Lost No □	Workdays Or Restric	sted Duty 🗌	Permanently D. Number of F	Disabling 🗹 Persons Affecte	Fatal 🗌
sonably C. Signific 11. Negligenc	t be expected to be ant and Substantia ce (check one)	y No Lost Workd	No  B. Low	Workdays Or Restric C. Moderate suance (check one)	D. High	D. Number of F	•	ed: 001
sónably C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation	r be expected to be ant and Substantia ce (check one) ction <u>1</u> ( B. Order	<sub>x:</sub> No Lost Workd. Il: Yes ☑ A. None □	No  B. Low  13. Type of Iss	C. Moderate	D. High	D. Number of F	Persons Affecte Reckless Disre	ed: 001
sónábly C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or Er 16. Terminatik	r be expected to be ant and Substantia ce (check one) ction <u>1</u> ( <u>0</u> B. Order <u>1</u> quipment on Due A. Date nination Action	x: No Lost Workd M: Yes ☑ A. None □ 04 (d) (1) C. Safeguard □	No  B. Low  13. Type of Iss	C. Moderate suance (check one) E. Citation/ Order Nun	D. High	D. Number of F	Persons Affecte Reckless Disre Safeguard 🗌	ed: 001 gard D Written Notice
sónábly C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or Ed 16. Terminatia Section III-Term 17. Action to	r be expected to be ant and Substantia ce (check one) ction 1 c ion B. Order 1 quipment on Due A. Date nination Action Terminate	x No Lost Workd. A. None □ 04 (d) (1) C. Safeguard □ Mo Da Yr 4/7/2020	No  B. Low  13. Type of Iss D. Written Notice	C. Moderate	D. High	D. Number of F	Persons Affecte Reckless Disre Safeguard 🗌	ed: 001 gard D Written Notice
sónábly C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or Ed 16. Terminatia Section III-Term 17. Action to 18. Terminate Section IV-Aut 19. Type of In	r be expected to be ant and Substantia ce (check one) ction <u>1</u> ( ion <u>1</u> ()	x No Lost Workd. A. None □ 04 (d) (1) C. Safeguard □ Mo Da Yr 4/7/2020	No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. C (24 Hr. Clock)	C. Moderate	D. High	D. Number of F	Persons Affecte Reckless Disre Safeguard 🗌	ed: 001 gard D Written Notice
sonably C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or Ed 16. Terminatia Section III-Term 17. Action to	r be expected to be ant and Substantia ce (check one) ction <u>1</u> c ion <u>8</u> . Order <u>1</u> quipment <u>1 c</u> ion Due <u>A</u> . Date mination Action Terminate ad <u>A</u> . Date <u>Mo</u> consted System Data inspection ode) <u>E</u> 0.2	x: No Lost Workd. al: Yes ☑ A. None □ 04 (d) (1) C. Safeguard □ Mo Da Yr 4/7/2020 Da Yr B. Time	No	C. Moderate	D. High [ Citation 7	D. Number of F	Persons Affecte Reckless Disre Safeguard F. Dated	ed: 001 gard Written Notice Mo Da Y

### Notes: **104(d)(1) Order**

**Item #8**  $\square$  Identify the agent of the operator by position, only (exclude names) that knew or should have known of the violative condition or practice. The factors that explain how the operator or the Agent engaged in any of the factors could be considered for aggravated conduct.

*The following statement must be included in the violation narrative:* 

"This violation is an unwarrantable failure to comply with a mandatory standard."

Item #12  $\Box$  Type of Action, click 104(d)(1) Order

Item #13 
Type of Issuance click Order

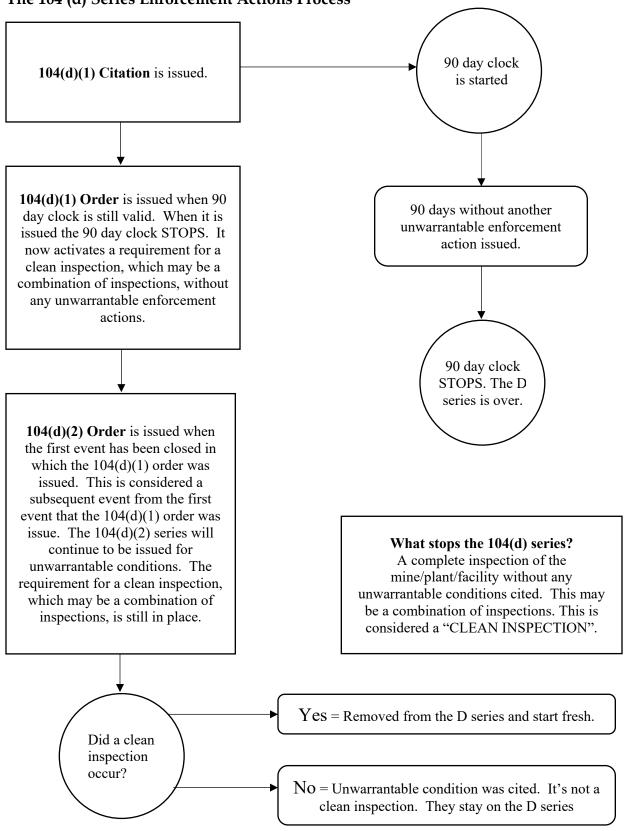
Item #14 E  $\square$  Citation/Order Number. Selected 104(d)(1) Citation number.

**Items #14**  $\square$  A-D will autofill

**Item #14**  $\square$  F will autofill

Item #15 
Area or Equipment

Item #16 
Termination Due is left blank. Orders do not have termination dates



#### The 104 (d) Series Enforcement Actions Process

### Section 104(e)(1): Pattern of Violation Notice

If a mine operator has a pattern of violations by receiving repeat or multiple S&S violations of mandatory MSHA standards, MSHA will issue a notice that such a pattern exists. The notice must identify each repeat or multiple S&S violations relied on to show a pattern. This section also allows for withdrawal of all persons from the affected area if MSHA finds another significant and substantial violation during an inspection within 90 days of issuance of the notice of pattern of violations. The 104(e) withdrawal order remains in effect until MSHA finds that this subsequent violation has been abated. Abatement of the subsequent violation does not terminate the pattern notice.

#### Notes: 104(e)(1) Notice

**Items 9, A**□, **B**□, **C**□ are left blank

**Item 10, A**□ through **D**□, are left blank

Item 11. 🗆 blank

**Item 12**. □ Select "104(e)(1)"

Item 13. 
Select the "Written Notice"

**Items 14A**. □ through **14F.** □ blank

**Items 15.** □ **16.** □ **17.** □ and **18.** □ blank

**Note:** SOL-MSH should be consulted when drafting notice.

# 104(e)(1) Notice

1. Date	tion Data Mo Da Yr	2. Tiı	ne (24 Hr. C	lock)				3.	Citation/				
4. Served To	4/9/2020 Mark Bla		Forema	1045 n	5.0	Operator			Order Num	lber	10	00000	
	Mark Bla	, KDUIII,	rorend				Moi	untain	Momma	Coal M	line	(0	
6. Mine 8. Condition of		tain Mo	omma Mir	le	7.1	Mine ID	01-2345	5				Votice (10	itractor)
Pursuant to (subject mi groups of v	o Section 104(e ine). A review (	of the S&S presentativ	violations o ve of violatio	ne Safety and He ited at the mine ons which are of	demonstrate	es a patterr	n of violat	ions. As i	illustrative	that a par of this par	ttern of ttern of	violations	s exists at s, the follow
				her, constitute a ntly and substan									
safety stan Representa Section 10	dard that could ative shall issue 4(c) of the Mine s that such viola	significant an order Act, to be	ly and subs requiring the withdrawn	nce of this Notic tantially contribu e operator to cau from, and to be p This Notice of F	te to the cau se all persor prohibited fro	use and eff ns in the a om entering	fect of a c rea affect g such ar	ed by suc ed by suc	er miné sa h violation h Authorize	ifety or he , except t ed Repres	alth haz hose pe entative	ard, the rsons ref of the S	Authorized erred to in ecretary
					1.0.0				See Contir	uation Forn	n (MSHA	Form 7000	)-3a) 🗸
9. Violation	A. Health Safety Other	B. Sec of A				Section of 30 CFR							
	ector's Evaluation												
10. Gravity:	or Illness (bas) (i	a): No Lii	kelihood 🗌	Linlikely [	] Be	asonably	ikelv 🗌	Hiat	ly Dkely		Occurre	d D	
A. Injury c	or Illness (has) (i or illness could r		kelihood	Unlikely [		asonably L			nly Likely		Occurre		
A. Injury c B. Injury c sonably	or illness could r	ea- be: No	kelihood 🗌		Re Re			P	ermanently	Disabling	, 🗆	Fatal	
A. Injury c B. Injury c sonably	or illness could r	ea- be: No						P		Disabling	, 🗆		
A. Injury c B. Injury c sonably C. Signific	or illness could r	ea- be: No	Lost Work	days 🗆 Lo:		Or Restrict	ted Duty	P	ermanently lumber of l	Disabling	ffected:	Fatal	
A. Injury c B. Injury c sonably C. Signific	or illness could r y be expected to cant and Substa ce (check one)	ea- be: No ntial:	Lost Work Yes 🗌	days C Los No C B. Low C	st Workdays	Or Restrict	ted Duty	P   D. N	ermanently lumber of l	<sup>,</sup> Disabling <sup>D</sup> ersons A	ffected: Disregar	Fatal	
A. Injury c B. Injury c <u>sonably</u> C. Signific 11. Negligen- 12. Type of <i>P</i> 14. Initial Act	or illness could r y be expected to cant and Substa ce (check one) Action	ntial: A. Nor 104 (e)	Ves C Yes C ne C (1)	days         Lo:           No	St Workdays C. Moder Issuance (chi	Or Restrict	ted Duty D. H Citation	P   D. N	ermanently lumber of I E.	<sup>7</sup> Disabling <sup>D</sup> ersons A Reckless I	g ffected: Disregan d	Fatal	lotice 🔽
A. Injury c B. Injury c sonably C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation	or illness could r y be expected to cant and Substa ce (check one) Action	ntial: A. Nor 104 (e)	Ves C Yes C ne C (1)	days C Los No C B. Low C	St Workdays C. Moder Issuance (chi	Or Restrict	ted Duty D. H Citation	P   D. N	ermanently lumber of I E.	Poisabling Persons A Reckless I Safeguard	g ffected: Disregan d	Fatal d	lotice 🔽
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A. Injury c B. Injury c sonably C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation	or illness could r y be expected to cant and Substa ce (check one) Action B. Order   Equipment	aa- be: No ntial: A. Nor 104 (e) ☐ C. Sat	Ves C Yes C ne C (1)	days C Lo: No C B. Low C 13. Type of 1 D. Written Notic	C. Moder C. Moder Issuance (chi e	Or Restrict	ted Duty D. H Citation	P   D. N	ermanently lumber of I E.	Poisabling Persons A Reckless I Safeguard	g ffected: Disregan d	Fatal d	lotice 🔽
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A. Injury c B. Injury c sonably C. Signific 11. Negligen- 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section III-Ter 17. Action to 18. Terminat Section IV-Au 19. Type of I (activity c 22. AR Nam	or illness could r y be expected to cant and Substa ce (check one) Action Description Equipment ion Due A. [ mination Action Terminate ed A. Date tomated System D nspection code) E0	Ja- be:         No           A. Nor         A. Nor           104 (e)         C. Sat           Date         Mo           Mo Da         Yr           ata         20. E           1         20. E	Lost Work Yes (1) ieguard ieguard Da Yr  B. Tim Event Numb John Doe	days       Los         No	C. Moder Issuance (chi e D E. ( Clock)	Or Restrict rate  rate  rate  Citation/ Order Num	D. H Citation ber	1ill	ermanently lumber of I E. rder []	V Disabling Persons A Reckless I Safeguard F. Da	1 Contraction of the second se	Fatal d Written N Mo D	lotice 🖉

### Section 104(e)(1): Order

#### Notes: 104(e)(1) Orders

**Item 8.** □ At the end of the narrative, add the following statement: "A Notice of Pattern of Violations, number xxxxxx, was issued on xx/xx/xx."

**Item 12**. □ Select "104(e)(1)"

Item 13. 
Select the "Order"

Item 14D. 
Select "Written Notice"

**Item 14E.**  $\Box$  Select from drop down menu 104(e)(1) Notice violation number

**Item 14F.**  $\Box$  with its issuance date

**Item 15.**  $\Box$  "Area or Equipment" describe the area or equipment affected

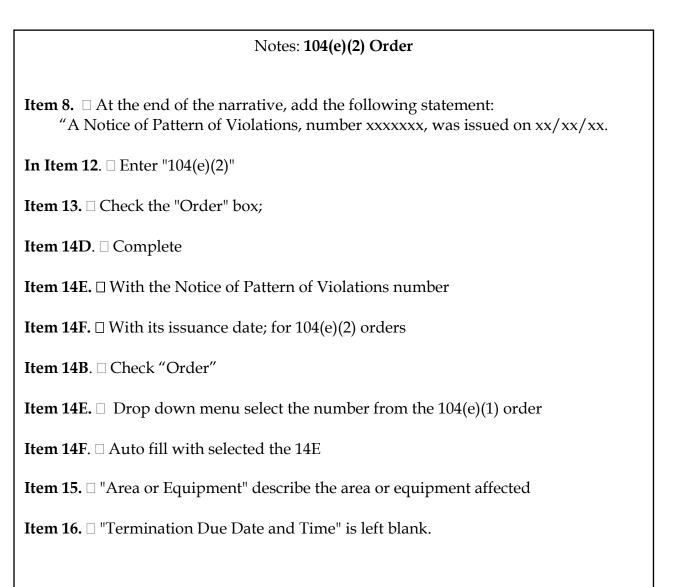
**Item 16.** □ "Termination Due Date and Time" is left blank.

# Section 104(e)(1): Order

Mine Citation/	Drder	1 A.		S. Department of La		
Section I-Violation (	Data			ine oalety and heath	Administration	
	lo Da Yr 2. Time (24 Hr. /9/2020	Clock) 1050		3. Citation/ Order Numb	per 10000	01
A Demond To	ark Blackburn, Forem	2	5. Operator			
6. Mine			7. Mine ID	Mountain Momma (		Contractor)
8. Condition or Pr	Mountain Momma Mi	ne	01-2	3456	8a. Written Notice	(103a)
1A belt ta bearings. running be generating	on of loose and com til pulley. The accu The condition exten elt. The materials a g heat. Oil spillage " <u>A Notice of Pattern</u>	nulation is up ds outby for 21 re compacted wi from the down 20" by 48" 1/4	to 15" in dept ', with 16' of thin the tail drill at this " in depth Sta	th covering the the belt makin roller and guar location has sa	tail piece an g contact wit d which is turated the	d h the
				See Continu	uation Form (MSHA Form	7000-3a) 🔲
.9. Violation A	Health B. Section Safety Ø of Act Other	C	. Part/Section of Title 30 CFR	75	.400	
B. Injury or illi sonably be	n 104 (e) (1) B. Order C. Safeguard C	kdays Lost Wor No : B. Low C. 13. Type of Issuar	<u>u</u>	uty Permanently D. Number of P D. High E. R	Disabling 🖸 Fa ersons Affected: Reckless Disregard 🗌 Safeguard 🗌 Writt F. Dated N	tal [] .010 .
16. Termination	A. Date	B. Time (24 Hr. Clock	)			
17. Action to Ter 18. Terminated	minate Mo Dai Yr	me (24 Hr. Clock)				
Section IV-Automa 19. Type of Insp (activity code	ection 20. Event Num	ber 9845910	21. Primary	or Mill		
22. AR Name	. John D	oe		. 23. AR N	umber 01234	
enforcement action enforcement action Street, SW MC 2	a, Apr 08 (revised) In accordance nal Small Business and Agriculture R is. The Ombudsman annually evaluat is of MSHA, you may call 1-808-REG- 20, Washington, DC 20416. Please r citations and proposed penalties and o	gulatory Ombudsman and 10 is enforcement activities and FAIR (1-888-734-3247), or wri ote, however, that your right t	Regional Fairness Board rates each agency's respo te the Ombudsman at Sm o file a comment with the f	nsiveness to small business. all Business Administration, O Ombudsman is in addition to a	nall businesses about fed If you wish to comment or ffice of the National Ombu	eral agency 1 the Idsman, 409 3rd

## Section 104(e)(2) Order

Where miners have been withdrawn under Section 104(e)(1), an additional withdrawal order shall be issued upon MSHA's finding of a significant and substantial violation during any subsequent inspection.



# Section 104(e)(2) Order

Mine Citati	ion/Order		.*			.S. Depart		.abor h Administ	tration .	
Section IViola	tion Data	•		· · · · · · · · · · · · · · · · · · ·		ine oalety	anu nean	n Aunania	lation	
1. Date	Mo Da Yr 4/20/2020	2. Time (24 Hr. Clo 0 80 0	ock)	i i i		3	. Citation/ Order Numl	per	100000	2
4. Served To	Mark Black	burn, Foremar	1 	5. Opera	tor	Mount	ain Momm	na Coal		
6. Mine	Mauraha	in Momma Mine		7. Mine I					(C	ontracto
8. Condition					46-0	001		8a. Writt	ten Notice (	10.3a) [
motors 3" and ground. drive w	to the belt 12" from th The openin as running	ailed to guar drive roller e exposed rot g 23" x 22" t and in servic n of violatio	on the #40 ating coup hat expose e when example	C belt driv lers. The r s these rot mined.	ve take cotatin cating	e-up. Gr ng coupl coupler	ease fit ers were s on bot	tings we 26" fro th engine	ere loc om the	ated
			4							
							See Continu	uation Form (MS	SHA Form 70	00-3a)
9. Violation	A. Health Safety Other	B. Section of Act		C. Part/Sectio Title 30 CF			75 1	.722 (a)		
Section IIInsp	ector's Evaluation						75,1	.122 (a)		
10. Gravity:						_		-		
- R NG	or Illness (has) (is): or illness could rea-	No Likelihood 🗌	Unlikely 🗌	Reasona	bly Likely	🗆 Hiç	hly Likely 🛛	000	curred 🗌	
	y be expected to be		ays 🛛 🛛 Lost	Workdays Or Re	stricted Du	uty 🗌 I	Permanently	Disabling 🗹	Fatal	Ξ.
C. Signific	cant and Substantia									
	Sam and Substantia	al: Yes 🗹	No 🗌			D.	Number of P	ersons Affect	ted:	0.01
11. Negligen	ce (check one)	al: Yes 🗹 A. None 🗌	No 🗌 B. Low 🗌	C. Moderate	۵.	D. High		ersons Affect Reckless Disr		001
11. Negligen	ce (check one)	Tes 🖌	B. Low	C. Moderate		D. High 🗌	E.F		egard 🗌	
12. Type of A	ce (check one) Action <u>1 (</u> tion	A. None	B. Low	suance (check or	ne) Cita	D. High 🗌	E.F	leckless Disr	egard 🗌 ] Written Mo	Notice Da Y
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat	ce (check one) Action 1 ( tion B. Order  C Belt. tion Due A. Date	A. None A. None D4 (e) (2) C. Safeguard Mo Da Xr	B. Low	E. Citatio	ne) Cita	D. High 🗌	E.F	Reckless Disn	egard 🗌 ] Written Mo	Notice Da Yr
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter	ce (check one) Action 1 ( tion B. Order  C Equipment Belt. ion Due A. Date mination Action	A. None A. None D4 (e) (2) C. Safeguard Mo Da Xr	B. Low 13. Type of Is D. Written Notice	E. Citatio	ne) Cita	D. High 🗌	E.F	Reckless Disn	egard 🗌 ] Written Mo	Notice Da Yr
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to	ce (check one) Action 1 ( tion B. Order  C Belt. tion Due A. Date mination Action Terminate	A. None A. None D4 (e) (2) C. Safeguard Mo Da Xr	B. Low 13. Type of Is D. Written Notice B. Time (24 Hr. C	Suance (check or E. Citatio Order	ne) Cita n/ Number	D. High [] ation [] C 100001	E.F	Reckless Disn	egard 🗌 ] Written Mo	Notice Da Yi
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to	ce (check one) Action 1( tion B. Order  Guipment Belt. A. Date mination Action Terminate has been i ted A Date	A. None A. None D4 (e) (2) C. Safeguard Mo Da Yr nstalled and	B. Low 13. Type of Is D. Written Notice B. Time (24 Hr. C	Suance (check or E. Citatio Order	ne) Cita n/ Number	D. High [] ation [] C 100001	E.F	Reckless Disn	egard 🗌 ] Written Mo	Notice Da Yi
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to A guarc 18. Terminat Section IV-Au	ce (check one) Action 1 ( tion Equipment Belt. In Due A. Date mination Action Terminate I has been 1 ted A. Date 4/2 tomated System Data	A. None A. None D4 (e) (2) C. Safeguard a Mo Da Yr nstalled and DDa Yr 20/2020 B. Time	B. Low     13. Type of Is D. Written Notice B. Time (24 Hr. C the couple	Suance (check or E. Citatio Order Clock)	ne) Cita n/ Number	D. High [] ation [] C 100001	E.F	Reckless Disn	egard 🗌 ] Written Mo	Notice Da Yi
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat 17. Action to A guard 18. Terminat Section IV-Au 19. Type of 1 (activity of	ce (check one) Action 1 ( tion B. Order  C Belt. C Belt. tion Due A. Date mination Action Terminate has been i ted A. Date Mc 4/2 tomated System Data Inspection code) E01	A. None A. None D4 (e) (2) C. Safeguard a Mo Da Yr nstalled and DDa Yr 20/2020 B. Time	B. Low 13. Type of Is D. Written Notice B. Time (24 Hr. C the couple (24 Hr. Clock)	suance (check or E. Citatio Order Clock) rs are not 0000	ne) Cita n/ Number	D. High [] ation [] C 100001	E.F Order	Reckless Disro	egard 🗌 ] Written Mo	Notice Da Y
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to A guard 18. Terminat Section IV-Au 19. Type of I	ce (check one) Action 1 ( tion B. Order  C Belt. C Belt. tion Due A. Date mination Action Terminate has been i ted A. Date Mc 4/2 tomated System Data Inspection code) E01	A. None A. None D4 (e) (2) C. Safeguard C. Safeguard a Mo Da Yr a Mo Da Yr B. Time 20. Event Number	B. Low     13. Type of Is D. Written Notice B. Time (24 Hr. C the couple (24 Hr. Clock)	suance (check or E. Citatio Order Clock) rs are not 0000	prope	D. High [] ation [] C 100001	E.F	eckless Disro Safeguard F. Dated	egard [] ] Written Mo 4/	Notice Da Y
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to A guarc 18. Terminat Section IV-Au 19. Type of 1 (activity of 22. AR Nam MSHA Form 7 established a t enforcement a enforcement a	ce (check one)         Action       1 (         tion       B. Order 🗹         Equipment       2         C Belt.       A. Date         mination Action       Terminate         Terminate       A. Date         tomated System Data       Mc         nspection       E01         code)       E01         e       000-3, Apr 08 (revised         000-3, Apr 08 (revised       C2120, Washington, The Ombudsa	A. None A. None D4 (e) (2) C. Safeguard C. Safeguard and D4 (e) (2) C. Safeguard B. Time 20. Event Number John Doe	B. Low 13. Type of Is 13. Type of Is D. Written Notice B. Time (24 Hr. C the couple: (24 Hr. Clock) 0000001 the provisions of the tory Ombudsman ar lorcement activities (1-888-734-3247), c	Suance (check or E. Citatio Order Clock) rs are not 0000 21 small Business Re nd 10 Regional Fairr and rales each ager or write the Ombudss	gulatory Entiress Boards ncys responses proper	D. High ationC 100001 100001 rly guar rly guar or Mill orcement Fairr to receive con silveness to sm Il Business Ad mbudsman is	E. F Drder 🔽 ded . 23. AR N ess Act of 195 ministration, O	Umber 02: 6, the Small Bu nall businesses If you wish to &	egard [] ] Written Mo 4/ 2222 usiness Admin about federa omment on th onal Ombudse	Notice Da Yı 9/202
12. Type of A 14. Initial Act A. Citation 15. Area or E The 4 C 16. Terminat Section III-Ter 17. Action to A guarc 18. Terminat Section IV-Au 19. Type of 1 (activity of 22. AR Nam MSHA Form 7 Street, SW M	ce (check one)         Action       1 (         tion       B. Order 🗹         Equipment       2         C Belt.       A. Date         mination Action       Terminate         Terminate       A. Date         tomated System Data       Mc         nspection       E01         code)       E01         e       000-3, Apr 08 (revised         000-3, Apr 08 (revised       C2120, Washington, The Ombudsa	A. None A. None D4 (e) (2) C. Safeguard C. Safeguard C. Safeguard C. Safeguard D4 (e) (2) C. Safeguard B. Time 20/2020 B. Time 20. Event Number John Doe 11.868-REG-FAIR DC 20416. Please note,	B. Low 13. Type of Is 13. Type of Is D. Written Notice B. Time (24 Hr. C the couple: (24 Hr. Clock) 0000001 the provisions of the tory Ombudsman ar lorcement activities (1-888-734-3247), c	Suance (check or E. Citatio Order Clock) rs are not 0000 21 small Business Re nd 10 Regional Fairr and rales each ager or write the Ombudss	gulatory Entiress Boards ncys responses proper	D. High ationC 100001 100001 rly guar rly guar or Mill orcement Fairr to receive con silveness to sm Il Business Ad mbudsman is	E. F Drder 🔽 ded . 23. AR N ess Act of 195 ministration, O	Umber 02: 6, the Small Bu nall businesses If you wish to &	egard [] ] Written Mo 4/ 2222 usiness Admin about federa omment on th onal Ombudse	Notice Da Yr 9/202

### Section 104(e)(3): Termination

The pattern of violations that resulted in the issuance of a notice shall be terminated if an MSHA inspection of the entire mine finds no significant and substantial violations of mandatory standards. However, a mine operator can reestablish a pattern of violation status as a result of subsequent significant and substantial violations.

### Notes: Section 104(e)(3)

Terminating a Notice of Pattern of Violations is done on a Mine Citation/Order Continuation Form 7000-3a using the initial number from the Notice of Pattern of Violations.

# Section 104(e)(3) Termination

	uent Action/Co Action 1a. C			2. Dated (Original Is	Mo		Yr	3. Citation/	r 1000000 - 01		
✓     ✓     4. Served To	Mark Black	um, Fore	man	(Original is	<sup>.sue)</sup> 04	/09/202	5. Opera	tor			
6. Mine NO	1						7. Mine		oal Mine	(Contractor)	
Section IIJustific	ation for Actio	i					46-000	01		574 AC	
Therefore, th	ne mine is	no long	er sub	ject to orde	ers of wit	thdrawa	l issued			lth hazard. f the Federal Mine :	Safety

### Section 104(g)(1): Orders

Section 104(g)(1) of the Mine Act provides for the withdrawal of untrained miners from a mine or mill until they have received the training required by Section 115 of the Mine Act. The purpose of a Section 104(g)(1) order is to eliminate the hazard that untrained or inadequately trained miners pose to themselves and to other miners. Section 104(g)(1)orders shall be evaluated for S&S using the criteria in Section 10 of this Chapter 3.

**Underground Mines (Part 48).** Sections 48.5, .6, .7, .8, and .11 are the only standards which may be cited under 104(g)(1) for untrained miners.

**Surface Mines and Surface Areas of Underground Mines (Part 48)**. Sections 48.25, .26, .27, .28, and. 31 are the only sections that may be cited under 104(g)(1) for untrained miners.

**Surface Mines (Part 46)**. Sections 46.5, .6, .7, .8, and .11 are the only sections that may be cited under 104(g)(1) for untrained miners.

Citations shall **not** be issued in lieu of Section 104(g)(1) orders **unless** the miner cannot be trained because he or she is no longer employed at the mine, was permanently disabled, or was fatally injured.

When miners have received training but there are violations involving training plans, cooperative training programs, records of training, compensation for training, etc., Section 104(g)(1) orders of withdrawal should not be issued. Issuances of 104(a) or 104(d) actions, are appropriate.

Section 104(g)(1) orders of withdrawal shall be written for the following categories of untrained miners:

- new miners;
- experienced or newly-hired experienced miners;
- miners assigned to perform a task for which they have had no previous experience;
- miners whose annual refresher training is not up-to-date; and
- miners or applicable persons working on mine property who have not been given hazard training.

### **Violations Involving One Miner:**

If one miner is involved, but two or more sections of Part 46 or Part 48 have been violated, one Section 104(g)(1) order will be issued citing the standard that would have the most serious immediate consequences. For example, failure to task train a miner operating an unfamiliar piece of equipment may have a greater immediate consequence to the health and safety of the untrained miner than the lack of annual refresher training. A description of the additional deficiencies should be included in the condition and practice portion of the order to ensure compliance with all training deficiencies, prior to termination.

**Example:** One underground miner was found not task trained and had not received annual refresher training. Only one Section 104(g)(1) order would be issued.

### Violations Involving More Than One Miner:

- a. When more than one untrained miner is withdrawn from a mine, a single 104(g)(1) order is appropriate provided the Part 46 or Part 48 training violation is the same for all the miners.
- b. Where multiple miners are involved and different violations of the training requirements have occurred for each miner, one or more 104(g)(1) orders would be issued, depending on the circumstances.

**Example:** Eight underground miners did not have the requisite safety training (three did not receive new miner training; two were not task trained; three missed annual refresher training). Three separate 104(g)(1) orders would be issued: one citing 30 CFR 48.5; one citing 30 CFR 48.7; and one citing 30 CFR 48.8. The untrained miners' names will also be listed in Item 15 "Area or Equipment" on each violation.

- c. When more than one miner is involved in violation of the same standard, the total number of miners withdrawn will be entered in Item 10D "Number of Persons Affected" on Form 7000-3. Each miner's name will also be listed in Item 15 "Area or Equipment".
- d. A 104(g)(1) order including more than one miner may be modified to allow individual miners to return to work as soon as each miner completes the training specified in the order.

### 104(g)(1) Violations Involving Independent Contractors:

A Section 104(g)(1) order of withdrawal would be issued to the direct employer of any miner who has not received the required training. If there is uncertainty as to who employs the miner, the order of withdrawal should be issued to the operator with the greatest physical presence at the mine. Any discrepancies occurring after the miner is withdrawn can be resolved through subsequent modification actions.

## Citations Issued With Section 104(g)(1) Orders:

Citations shall not be issued in addition to 104(g)(1) orders for the same violation except in instances of overlapping compliance responsibility between contractors and mine operators. There may be circumstances where it is appropriate to issue citations or orders for training violations to both the independent contractor and the production operator.

**Example:** A miner is the employee of an independent contractor and the production operator had agreed to provide the miner training in accordance with the mine's MSHA approved training plan. The miner has not received the required training. A 104(g)(1) order would be issued to the independent contractor and, as appropriate, a 104(a) citation, or a 104(d)(1) citation, or a 104(d)(1) order, or a 104(d)(2) order would be issued to the production operator.

### Section 104(g)(1) Orders

#### Notes: 104(g)(1) Orders

**Item #8.**  $\Box$  Condition and Practice of the order describes the hazard and clearly states the prohibited activity. Include the statement "The Federal Mine Safety and Health Act of 1977 declares that untrained miner(s) are a hazard to themselves and others."

**Items # 9C.** □ Enter the first standard cited.

Item #12.  $\Box$  104(g)(1) is completed.

**Item #15.**  $\Box$  "Area and Equipment" indicate the person(s) to be withdrawn.

Items # 16A, 16B. 
Leave blank. Orders have no Termination Due.

# 104(g)(1) Order

	ion Data				IV	nne Sal	ety and Health	Auministrat	UII
1. Date	Mo Da Yr	2. Time (24 Hr. C	lock)				3. Citation/		
	4/16/2020		0830				Order Numbe	er 10	00003
4. Served To	Charlie Hus	tle, Owner		5. Op	erator	E	ig Red Mac	hine	
6. Mine				7. Mi			-		(Contra
8. Condition o		front Plant			15-0	01975		8a. Written I	XYZ
unable t provided from the	pendent contr to provide a d by the driv e property un 1977 declares	valid reco ver was date ntil the ree	rd of annual ed 1/10/2019 quired train	retrain . The pi ing is n	ning. The lant open received	e annu rator i . The i	al retraini must withdi Federal Min	ing docume raw the tr ne Safety	entation ruck dri
9. Violation	A. Health Safety 2 Other	B. Section of Act		C. Part/Se Title 30			See Continua 48.2	tion Form (MSHA	Form 7000-3a
	ctor's Evaluation			•					
<ol> <li>Gravity:</li> <li>A. Injury or</li> </ol>	Illness (has) (is):	No Likelihood 🗌	Unlikely 🗸	Reas	onably Likely		Highly Likely	Occurre	ed 🗌
	illness could rea-	No Lost Workd		Vorkdave Or	Restricted Du	the 🔽	Permanently D	icabling 🔲	Fatal
	be expected to be: ant and Substantial:			VOIKUAYS OI	nestricted Di		D. Number of Per		
C. Significa	init and Substantial.	Yes 🗌	No 🗹				D. Number of Per	Sons Allected.	001
11. Negligenc	e (check one)	A. None	B. Low	C. Moderate	•	D. High	E. Re	ckless Disregar	d 🗌
12. Type of Ac	tion 104	(g)(1)	13. Type of Issu	uance (checl	( one) Cita	ation 🗌	Order 🖌 Sa	afeguard 🗌	Written Noti
14. Initial Action	on B. Order D (	C. Safeguard 🗖	D. Written Notice	E. Cit	ation/ ler Number			F. Dated	Mo Da
	quipment gan, Driver			·		Ι			
15. Area or Ec Joe Morg 16. Terminatio	Due A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ock)					
Joe Morg	A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ock)					
Joe Morg 16. Terminatio	A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ock)					
Joe Morg 16. Terminatio Section III-Term 17. Action to T	A. Date nination Action Terminate	a Yr	B. Time (24 Hr. Clo e (24 Hr. Clock)	ock)					
Joe Morg 16. Terminatio Section III-Term 17. Action to T 18. Terminate Section IV-Auto 19. Type of In:	A. Date nination Action Terminate d A. Date Mo D mated System Data spection	a Yr	e (24 Hr. Clock) r		21. Primary	or Mill			
Joe Morg 16. Terminatio Section III-Term 17. Action to T 18. Terminate Section IV-Auto 19. Type of In: (activity co	A. Date nination Action Terminate d A. Date Mo D mated System Data spection ode) E01	ia Yr B. Time	e (24 Hr. Clock)	bck)	21. Primary	or Mill	23. AB Nun	nber	
Joe Morg 16. Terminatio Section III-Term 17. Action to T 18. Terminate Section IV-Auto 19. Type of In:	A. Date nination Action Terminate d A. Date Mo D mated System Data spection ode) E01	ia Yr B. Time 20. Event Numbe Sparky	e (24 Hr. Clock) r				23. AR Nur	51050	

#### Section 107(a): Order of Withdrawal

- A. Imminent danger is defined as the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated. An imminent danger exists only when the hazardous condition has a reasonable potential to cause death or serious injury to a miner if normal mining operations continue before the dangerous condition can be eliminated.
- B. An imminent danger order cannot be issued for an accident which has already occurred unless the danger still exists.
- C. Immediate physical exposure to the imminent danger does not have to be witnessed by the inspector to issue a 107(a).
- D. A 107(a) order(s) immediately removes miners from exposure to a serious hazard. The imminent danger must exist at the time an order is issued. When an imminent danger is observed the inspector immediately issues an "Oral 107(a) Order," to withdraw the exposed miner(s) from danger.

**Note taking**: The Oral 107(a) should be documented in the field notes as soon as practical.

### Notes: 107(a) Orders

**Item #8.**  $\Box$  Condition and Practice of the order has two required statements:

- 1. An oral imminent danger was issued to "John Doe, title, time issued, location and reason for issuance.
- 2. "This condition is an imminent danger."

Items # 9A, 9B, 9C, 10 and 11  $\square$  are not filled out.

**Item #12.** □ 107(a) is completed

Item #13. 
 Select Order

**Item #14.** □ Not filled out

**Item #15.** □ Describe the "Area or Equipment" affected

**Item #16.**  $\Box$  "Termination Due Date and Time," are left blank

**Item #17.** Describe what actions were taken to terminate the condition.

# Section 107(a) Order of Withdrawal

	tion Data								nd Health			
1. Date	Mo Da Yr 4/22/2020	2. Time (	24 Hr. Clock) 06						itation/ rder Numbe		85332	80
4. Served To	Shane Corr	lish, Mi			5.	Operator	Cornis			npany, L		
6. Mine					7.	Mine ID	COLINID		ing con	ipany, 1		(Contrac
0.0	- AE - AE -	rnwall M	line				05-01234			0. 10/201		(100-)
8. Condition o	107(a) imm				4	h. 01.			L. 193	8a. Writte		10
The crushers accident fatal in cam-ove: danger i and inst	at the mil e Welder wa s counter b tal movemen njury by cr r and cause to the Mill tructed the tation No.	as observ alance w t of the cushing l the jaw wright. Welder	ved insi wheel wa e jaw pl him betw w to mov The Min to secu	de the j s not se ates. Th een the e back a e Manage re the c	aw crus cured w is cond wear-pl nd fort r immed counter	her ha ith th ition ates; h. Thi iately balanc	rd facin e lockin exposed if the c s condit withdre e by loc	g (we g mec the W ounte ion c w the king	lding) hanism elder t r balar onstitu Welder it in p	to previous a pot- ice whee ited an from t	ent t entia l wer immin	he lly e to ent
								1	See Continuat	tion Form (MSI	HA Form	7000-3a)
9. Violation	A. Health Safety Other	B. Section of Act				Section of 30 CFR						
	ector's Evaluation	~										
10. Gravity: A Injuny of	r Illness (has) (is):	No Likelih	ood 🗆	Unlikely 🗌	Be	asonabiv I	ikely 🗌	Highly	Likelv 🗌		urred	T
	r illness could rea-											
	be expected to be		t Workdays		t Workdays	Or Restric	ted Duty	Per	manently Di	isabling 🛛	Fat	tal 🗌
C. Signific	ant and Substantle	al: Ye	s 🗌 🛛 No					D. Nu	mber of Per	sons Affecte	d:	
11. Negligenc	e (check one)	A. None	В.	Low 🗌	C. Moder	ate 🗌	D. High		E. Ree	ckless Disreç	gard 🗌	]
						X			20	205 2005 5	20001028	en Notic
12. Type of A	ction	107(a)		<ol><li>Type of Is</li></ol>	ssuance (ch	eck one)	Citation	Orde	er 🖌 Sa	afeguard 🗌	Writte	
1983	on			13. Type of Is	E.0	eck one) Citation/ Order Num		Orde	er 🖌 Sa	F. Dated		
14. Initial Acti A. Citation 15. Area or Ed	on B. Order	C. Safegu			E.0	Citation/		Orde	er 🖌 Sa			lo Da Y
14. Initial Acti A. Citation 15. Area or Ed	on B.Order quipment e, the weld	C. Safegua ler. Mo Da	ard D. V			Citation/		Orde	er 🗸 Sa			
14. Initial Acti A. Citation 15. Area or Ed John Doc	on B. Order quipment e, the weld	C. Safegua ler. Mo Da	ard D. V	Vritten Notice		Citation/		Orde	or 🖌 Sa			
14. Initial Acti A. Citation 15. Area or Er John Doo 16. Terminatio Section III-Term 17. Action to	on B.Order quipment e, the weld on Due A.Dat mination Action	C. Safegua ler. e <sup>Mo Da</sup>	ard D. V Yr B. 1	Vritten Notice Time (24 Hr. C	Clock)	Citation/ Order Num	iber	Orde	or 🖉 Sa			
14. Initial Actia A. Citation 15. Area or En John Doo 16. Termination Section III-Term 17. Action to The Mino 18. Terminate	on B. Order quipment e, the weld on Due A. Date mination Action Terminate e Manager w ad A. Date Ma 4/2	C. Safegua ler. e Mo Da rithdrew	ard D. V Yr B. 1	/ritten Notice Tme (24 Hr. ( der from	Clock)	Citation/ Order Num	iber	Orde	r√ Sa			
14. Initial Actia A. Citation 15. Area or En John Doo 16. Terminatio Section III-Term 17. Action to The Mino 18. Terminate Section IV-Auto	on B. Order quipment e, the weld on Due A. Date mination Action Terminate e Manager w ad A. Date 4/2 pomated System Data	C. Safegua ler. e Mo Da rithdrew D Da Yr 22/2020	Ard D. V Yr B. T the Wel B. Time (24	/ritten Notice Tme (24 Hr. ( der from	Clock)	Citation/ Order Num w crus	her.	Orde	r√ Sa			
14. Initial Actia A. Citation 15. Area or En John Doo 16. Termination Section III-Term 17. Action to The Mino 18. Terminate	on B. Order quipment e, the weld on Due A. Date mination Action Terminate e Manager w A. Date Manager w A. Date Manager w	C. Safegua ler. e Mo Da rithdrew	Ard D. V Yr B. 1 the Wel B. Time (24	/ritten Notice Tme (24 Hr. ( der from	Clock)	Citation/ Order Num w crus	iber	Orde	r√ Sa			
14. Initial Acti A. Citation 15. Area or Ed John Doo 16. Terminatic Section III-Term 17. Action to The Mind 18. Terminate Section IV-Aut 19. Type of In	on B. Order quipment e, the weld on Due A. Date mination Action Terminate e Manager w ad A. Date Manager w ad A. Date Manager w ad A. Date Manager w ad A. Date Manager w	C. Safegua ler. e Mo Da rithdrew D Da Yr 22/2020	Ard D. V Yr B. 1 the Wel B. Time (24	/ritten Notice Time (24 Hr. C der from Hr. Clock)	Clock)	Citation/ Order Num w crus	her.		23. AR Nun	F. Dated		

### Section 104(a): Citation in conjunction with 107(a) Order

- A. A 104(a) Citation(s) is issued in conjunction with the 107(a) when there is a violation of a mandatory standard that has been violated that caused or contributed to the imminent danger.
- B. Describe the condition(s) or practice(s) which created the imminent danger situation and why the risk of hazard will occur before it can be remedied. In most cases it will mirror the description of the 107(a) order.
- C. The following statement in the Item 8 narrative should be added:

This citation was issued for the following condition that was contributing factor to the issuance of the Imminent Danger Order No. xxxxxx dated\_\_\_\_. Therefore no abatement time was set.

#### Notes: 104(a) Citation in conjunction with 107(a) Order

**IAS:** When the 104(a) citation is issued in IAS you have to connect the citation to the imminent danger order through the block called: <u>**Related Order Number.**</u> This block has a drop-down menu that you click and you can select the Imminent Danger Order number that is connected to the 104(a) citation/order that is being issued. This will link the two and allow the IAS to issue the 104(a) without having a Termination Due Date.

This is the only difference from issuing a normal 104(a) Citation.

Related Order Number	
	$\vee$

# 104(a) Citation Attached to 107(a) Order

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section IViolation Data	Nine Salety and Health Administration
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 4/22/2020 0655	3. Citation/ Order Number 8533281
4. Served To Shane Cornish, Mine Manager	5. Operator Cornish Mining Company, LLC.
6. Mine Cornwall Mine	7. Mine ID (Contraction of the company) and the Contraction of the company of the
8. Condition or Practice	8a. Written Notice (103g)
accidental movement of the jaw plates. fatal injury by crushing him between t cam-over and cause the jaw to move bac danger to the Welder. The Mine Manager instructed the Welder to secure the co This citation was issued for the the issuance of an imminent danger ord abatement time was set.	following condition that was a contributed factor to
	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Health D B. Section	C. Part/Section of
Safety D of Act Other D	Title 30 CFR
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood 🗌 Unlikel	ly 🗌 Reasonably Likely 🗍 Highly Likely 🗹 Occurred 🗍
B. Injury or illness could rea-	
sonably be expected to be: No Lost Workdays	Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal
C. Significant and Substantial: Yes 🗹 No 🗌	D. Number of Persons Affected: 001
11. Negligence (check one) A. None B. Low	C. Moderate 🖉 D. High 🗌 E. Reckless Disregard 🗌
12. Type of Action 13. Type	of Issuance (check one) Citation 🖉 Order 🗌 Safeguard 🛄 Written Notice
14. Initial Action	E. Citation/ F. Dated Mo Da Y
A. Citation B. Order C. Safeguard D. Written No	otice L Order Number
15. Area or Equipment	
16. Termination Due	
A. Date B. Time (24 I	Hr. Clock)
Section IIITermination Action	
17. Action to Terminate The Mine Manger withdraw the Welder fro	om the Jaw Crusher. The counter balance wheel was
secured. The Mine Manager held a safet measures that should have taken place p	ty meeting with the crew and discussed the preventive prior to commencing their work.
18. Terminated A Date Mo Da Yr R Time (24 Hr Clear	
Section IV-Automated System Data	<sup>K)</sup> 0656
19. Type of Inspection 20. Event Number	21. Primary or Mill
(activity code) E01 4262847	
	23. AR Number
22. AR Name	of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration
established a National Small Business and Agriculture Regulatory Ombudsmi	an and 10 Regional Fairness Boards to receive comments from small businesses about federal agency
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions or established a National Small Business and Agriculture Regulatory Ombudsm enforcement actions. The Ombudsman annually evaluates enforcement active enforcement actions of MSHA, you may call 1-888-REGFARIR (1-888-734-322	an and 10 Regional Fairness Boards to receive comments from small businesses about federal agency vities and rates each agency's responsiveness to small business. If you wish to comment on the 47), or write the Ombudsman at Small Business Administration. Office of the National Ombudsman. 40
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of established a National Small Business and Agriculture Regulatory Ombudsmu enforcement actions. The Ombudsman annually evaluates enforcement active inforcement actions of MSHA, you may call 1-888-REGF-AFIR (1-888-734-322)	an and 10 Regional Fairness Boards to receive comments from small businesses about federal agency vities and rates each agency's responsiveness to small business. If you wish to comment on the 47), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 40 ovur right to file a comment with the Ombudsman is in addition to any other rights you may have including and the second secon

### Section 107(b)(1): Order Notices

## (Generally not used)

Section 107(b) provides unique enforcement procedures and requirements to contend with the unusual circumstances of dangerous conditions that cannot be effectively abated using existing technology. Accordingly, enforcement personnel or District Managers shall not issue orders or take any action under Section 107(b) before consulting with the Regional Administrator of Mine Safety and Health Enforcement.

Further, a Section 107(b) order is not to be modified, terminated, or vacated by inspectors or district officials without prior consultation with the Regional Administrator of Mine Safety and Health Enforcement.

# Section 110(g): Miners smoking or carrying smoking materials in prohibited areas

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty.

# Notes: 110(g) Miners Smoking

**Item 4.**  $\Box$  of the Mine Citation/Order form is completed with the miner's name.

**Items 5, 6, and 7.**  $\Box$  are completed with the operator's name, the mine name, and the Mine ID number.

**Item 8.**  $\Box$  is completed with a description of the observed violation. The following statement shall be included at the end of that description:

"This is notification to the individual that he or she will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters."

**Item 9B.**  $\Box$  is completed with "110(g)".

**Item 9C.** □ is completed with one of the standards violated: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711. Complete Section II

**Items 10A through D.**  $\Box$  based on the determination made at the time the violation was observed.

**Item 11.**  $\Box$  will always be completed with at least "high" negligence checked.

**Item 16.**  $\Box$  is not completed.

One copy of the completed notice is given to the miner.

A copy of the notice will be emailed to the MSHA Office of Assessments in Arlington, Virginia for a penalty to be proposed. The email will provide the last known personal address for the miner(s) so that the proposed assessment can be processed. This is a serious hazard. If there are any mitigating facts to be considered in proposing the penalty, the email shall so state. Note: the assessment has a statutory maximum.

# Section 110(g): Notice (see 104(a) to operator below)

Series 1-Weaking Data       0.000 D Y       2. Time (24 Hr. Clock)       0.000 D Y       0.000 P Y         6. Mine       4/20/2020       2. Time (24 Hr. Clock)       5. Operator       0.000 P Y       0.000 P Y         6. Mine       Mountain Monma Mine       7. Mine ID       0.000 P Y       0.000		on/Order						tment of La		ation
4/20/2020       1030       Order Number       1000003         4. Served To       Joe Came1       5. Operator       Mountain Momma Coa1         6. Mine       Mountain Momma Mine       2. Mine ID       Mountain Momma Coa1         6. Condition or Practice       5. Writen Note (1030)       (Contractor         9. Wolation of Practice       5. Writen Note (1030)       S. Writen Note (1030)         9. Wolation of Practice       5. Writen Note (1030)       S. Writen Note (1030)         9. Volation A Health       B. Section       Of Act       This is a notification of that Mr. Camel had that we enable (1030)         9. Volation A Health       B. Section       Of Act       This (10 g)       This (10 g)       This (10 g)         9. Volation A Health       B. Section       Of Act       This (10 g)       This (10 g)       This (10 g)         9. Volation A Health       B. Section       Of Act       This (10 g)       This (10 g)       This (10 g)         9. Volation A Health       B. Section       Of Act       This (10 g)       This (10 g)       This (10 g)         9. Volation A Health       B. Section       Of Act       This (10 g)       This (10 g)       This (10 g)       This (10 g)         9. Volation A Health       B. Section       O Lot Workdays C Restricted Duy										
Oute Call         Mountain Momma Coal           6. Mine         7. Mine ID         46-0000         (Contractor           6. Condition of Practice         5a. Written Notice (1930)         (Contractor         Sa. Written Notice (1930)           7. Mine ID         46-0000         5a. Written Notice (1930)         Sa. Written Notice (1930)         Sa. Written Notice (1930)           9. Volation of Joe Came), conducted by the section foremant and MSIA revealed that Wr. Came) will revealed cigarette butter in higo possession. This is a notification that Wr. Came) will revealed to carrying smokin materials.           9. Volation A. Heath         6. Section         of Act         Tile 30 CFR         75.1702           Section I. Aspector's Evaluation         100 (g)         Tile 30 CFR         75.1702         Course (1990)           9. Volation A. Heath         6. Section         of Act         110 (g)         Tile 30 CFR         75.1702           Section I. Aspector's Evaluation         10. (g)         Course (1990)         Permanently Disabiling         Fatal [2]           9. Norther of Prenons Affected:         001         Initeed Prenons Affected:         001           11. Negleproc (check one)         A. Nore B. B. Low         C. Moderate         D. High [2]         Execute [2]         01           12. Type of Action         13. Type of Issuerc (check one)         Cidation <td>1. Date</td> <td></td> <td></td> <td></td> <td>2</td> <td></td> <td>3</td> <td></td> <td>r 1</td> <td>000003</td>	1. Date				2		3		r 1	000003
8. Mine       Nume in Mountain Momma Mine       2. Mine in Mountain Momma Mine       2. Mine in Mountain Momma Mine       46-0000       (Contracto Ba. Written Notice (1030) []         9. Molation or Practice       Ba. Written Notice (1030) []       White investigating a 103g complaint which alleged miners are smoking underground, a smoker' search of yoe Canel, conducted by the section foreman MSIIA revealed that Wr. Camel had two smoked cligarette butts in his possession . This is a notification that Wr. Camel had two smoked cligarette butts in his possession . This is a notification that Wr. Camel had two since (1991) penalty for violating a mandatory safety standard related to carrying smokin materials.         9. Volation       A Heath	4. Served To	Joe Camel	•		5. Opera	itor			<b>a</b> ]	
Mountain Momma Mine         46-000           B. Condition Protection         B. Writen Notice (103g)           While investigating a 103g complaint which alleged miners are smoking underground, a smoker' event of Constructed by the section forman and SBID motificated that K.Y. Gamelind           even of Construction of Construction of Construction for the section forman and SBID motificated to that K.Y. Gamelind           even of Construction for the section forman and SBID motificated to carrying smokin materials.           9. Violation         A. Heath           19. Violation         A. Heath           10. Gravity.         B. Section           3. Violation         A. Heath           10. Gravity.         Injung of Minass (has) (si): No Likelihood         Unlikely           10. Gravity.         No Lost Workdays         Lost Workdays Or Restricted Duly         Permanently Disabling           10. Gravity.         No Lost Workdays         Lost Workdays Or Restricted Duly         Permanently Disabling         Fatal [2]           11. Neglegence (check one)         A. None         B. Low         C. Moderate         D. Number of Persons Affected:         001           11. Neglegence (check one)         A. None         B. Low         C. Moderate         D. High [2]         E. Reakess Disregard           12. Type of Action         13. Type of Issuance (check one)         Order         Sateguar	6. Mine				7. Mine	D	Mount	ain Momma	Coal	(Contracto
While investigating a 103g complaint which alleged miners are smoking underground, a smoker's search of Joe Camel, conducted by the section foreman and MBR revealed that Mr. Camel had treceive a Civil penalty for violating a mandatory safety standard related to carrying smokin materials.         9. Volation       A Health       B. Section       See Continuation Form (MSHA Form 7000-3a) [ Title 30 CFR 75.1702         9. Volation       A Health       B. Section       C. Part/Section of Title 30 CFR 75.1702         Settor       - Advantage (b): No Likelihood       Unlikely       Reasonaby Likely [2] Highly Likely       Occurred         9. Volation       A Health       B. Section       C. Part/Section of Title 30 CFR 75.1702       Sector 1.10 (g)         9. Volation       A Health       B. Section       C. Part/Section of Title 30 CFR 75.1702       Sector 1.10 (g)         9. Volation       A health       Unlikely       Lost Workdays Or Restricted Duty       Permanently Disabiling       Fatal [2]         0. Gravity:       A lingury or filmess (has) (b): No Likelihood       Lost Workdays Or Restricted Duty       Permanently Disabiling       Fatal [2]         10. Registerine could res- sonably be expected to be:       No C       Moderate       D. High [2]       E. Recidess Disregard       001         11. Negligence (check cne)       A None       B. Low       C. Moderate       D. High [2]       E. Recidess Disregard       0	9 Condition		ain Momma Mine			46-0	000		9a 10/ritta	
9. Violation A. Heath B. Sately Dither Strength B. Section of Act 110 (g) C. Part/Section of Title 30 CFR 75.1702 Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood D. Unlikely Reasonably Likely Z. Highly Likely Coccurred D. B. Injury or Illness (has) (is): No Likelihood D. Unlikely Reasonably Likely Z. Highly Likely Coccurred D. B. Injury or Illness (has) (is): No Likelihood D. Unlikely D. Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood D. Unlikely D. Lost Workdays Or Restricted Duty Permanently Disabiling Fatal Z. C. Significant and Substantial: Yes Z. No D. 11. Negligence (check one) A. None B. Low C. Moderate D. High Z. E. Reckless Disregard D. 12. Type of Action 13. Type of Issuance (check one) Citation Order Sateguard Written Notice D. 14. Initial Action B. Order C. Sateguard D. Written Notice E. Citation/ A. Citation B. Order C. Sateguard D. Written Notice E. Citation/ A. Citation B. Order C. Sateguard D. Written Notice D. 15. Area or Equipment 16. Termination Due A. Date Mo Da Yr 17. Action to Terminate The smoking material's were removed from the mine. 18. Terminated A. Date Mo Da Yr 22.34567 22. AR Name John Doe 22.24567 23. AR Name John Doe 22.24567 24. Primary or Mill 22. AR Name John Doe 22.24567 23. AR Name John Doe 22.24567 24. Primary or Mill 25. AR Name John Doe 22.24567 25. AR Name	two smo receive	ked cigaret a civil pe	te butts in his	possessi	on . This	is a r	otifica	tion that	Mr. Car	nel will
Section II-Inspector's Evaluation       10. Gravity:         10. dravity:       A. Injury or Illness (has) (is): No Likelihood       Unlikely       Reasonably Likely       Highly Likely       Occurred         B. Injury or Illness could rea:       sonably be expected to be:       No Lost Workdays       Lost Workdays Or Restricted Duty       Permanently Disabiling       Fatal         C. Significant and Substantial:       Yes       No       D. Number of Persons Affected:       001         11. Negligence (check one)       A. None       B. Low       C. Moderate       D. High       E. Reckless Disregard       01         12. Type of Action       13. Type of Issuance (check one)       A. None       B. Low       C. Moderate       D. High       E. Reckless Disregard       Written Notice         14. Initial Action       B. Order       C. Safeguard       D. Written Notice       E. Citation/       F. Dated       Mo Da Yr         15. Area or Equipment       B. Time (24 Hr. Clock)	9. Violation	Safety 🗖	of Act	) (a)						IA Form 7000-3a) [
A. Injury or Illness (has) (is): No Likelihood       Unlikely       Reasonably Likely       Highly Likely       Occurred         B. Injury or Illness could rea- sonably be expected to be:       No Lost Workdays       Lost Workdays Or Restricted Duty       Permanently Disabling       Fatal       Ø         C. Significant and Substantiat:       Yes       No       D. Number of Persons Affected:       001         11. Negligence (check one)       A. None       B. Low       C. Moderate       D. High       E. Reckless Disregard       Written Notice [         12. Type of Action       13. Type of Issuance (check one)       Citation       Order       Safeguard       Written Notice [         14. Initial Action       A. Order       C. Sateguard       D. Written Notice       E. Citation/ Order Number       F. Dated       Mo Da Yr         15. Area or Equipment       B. Time (24 Hr. Clock)       Section III-Termination Action       17. Action to Terminate         18. Terminated       A. Date       Mo Da Yr       B. Time (24 Hr. Clock)       1257         Section IV-Automated System Data       19. Type of Inspection (activity code)       20. Event Number       21. Primary or Mill         19. Type of Inspection (activity code)       E01       22.3 456.7       21. Primary or Mill       0222.2         MSNA Form 7000-3. Apr 08 (revised)       In acco	Section IIInsp		11	5(9)				75	1702	
B. Injury or illness could reasonably be expected to be:       No Lost Workdays □       Lost Workdays Or Restricted Duty □       Permanently Disabling □       Fatal ②         C. Significant and Substantial:       Yes ②       No □       D. Number of Persons Affected:       001         11. Negligence (check one)       A. None □       B. Low □       C. Moderate □       D. High ②       E. Reckless Disregard □         12. Type of Action       13. Type of Issuance (check one)       Citation □       Order □       Safeguard □       Written Notice [         14. Initial Action       B. Order □       C. Safeguard □       D. Written Notice □       E. Citation/       F. Dated       Mo Da Yr         15. Area or Equipment       B. Time (24 Hr. Clock)	· · · · · · · · · · · · · · · · · · ·			Unlikely 🗖	Dessen	بالمانا بالط		able I II ale 🗖	0	
sonably be expected to be:       No Lost Workdays Dincomposite Control of the provisions of the Small Business Administration of the Automation Business Administration of the Conserver, Intol or With the Ombudeman is in addition to any other fully success administration of the Small Business Administration of the Automation Business administration of the Ombudeman and Apple to Base Administration of the Ombudeman and Apple to Base Administration of the Ombudeman and Apple to Base Administration of the Ombudeman and the Ombudeman a						<u> </u>			Occu	
11. Negligence (check one)       A. None       B. Low       C. Moderate       D. High       E. Reckless Disregard         12. Type of Action       13. Type of Issuance (check one)       Citation       Order       Safeguard       Written Notice [         14. Initial Action       B. Order       C. Safeguard       D. Written Notice [       E. Citation/       F. Dated       Mo Da Yr         A. Citation       B. Order       C. Safeguard       D. Written Notice [       E. Citation/       F. Dated       Mo Da Yr         15. Area or Equipment       B. Time (24 Hr. Clock)       Section III-Termination Action       Section III-Termination Action       Section III-Termination Action         17. Action to Terminate       A. Date       Mo Da Yr       B. Time (24 Hr. Clock)       1257         Section IV-Automated System Data       12. Event Number       12.57       21. Primary or Mill       02222         MSHA Form 7000-3, Apr 08 (revised)       In accordance with the provisions of the Small Business Regulatory Enforcement Paimess Act of 1996, the Small Business Administration of the organese at Agency treps responsivenes to small business. Jancendane on the enforcement actions. The Ombudeman annual provement material right to the organese at Agriculture Regulatory Combudeman at Small Business. Administration of the Small Business Administration of the CiteWith Concement on the enforcement actions. The Ombudeman annual provement material right to the comment with to organe on the enforcement actions. The Omb				L Lost V	Norkdays Or Re	stricted Du	ty 🗋 👘	Permanently D	isabling 🗋	Fatal 🔽
12. Type of Action       13. Type of Issuance (check one)       Citation Order Safeguard Written Notice         14. Initial Action       A. Citation D.       B. Order C., Safeguard D., Written Notice       E. Citation/ Order Number       F. Dated       Mo Da Yr         15. Area or Equipment       B. Time (24 Hr. Clock)       Section III-Termination Action       F. Dated       Mo Da Yr         16. Termination Due       A. Date       Mo Da Yr       B. Time (24 Hr. Clock)       Section III-Termination Action         17. Action to Terminate The smoking material's were removed from the mine.       The mine.       Section III-Terminate Action       Section III-Terminate Action         18. Terminated       A. Date       Mo Da Yr 4/20/2020       B. Time (24 Hr. Clock)       1257         Section IVAutomated System Data       12.0       E. Time (24 Hr. Clock)       1257         Section IVAutomated System Data       10.0       20.1       22.34567       21. Primary or Mill         19. Type of Inspection (activity code)       E0.1       22.34567       23. AR Number       02222         MSHA Form 7000-3, Apr 08 (revised)       In accordance with the provisions of the Small Business Regulatory Chipus Barards to receive comments from small businesses administration enforcement actions. The Ombudsman annually evaluates enforcement activities and Agency's reprosiveness to small businesses abund Indexing source Aleva, encloudin enforcement actions. The Ombudsman annu	C. Signific	ant and Substanti	al: Yes 🗹 No				D.	Number of Per	sons Affected	d: 001
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A. Citation       B. Order       C. Safeguard       D. Written Notice       Order Number         15. Area or Equipment         16. Termination Due       A. Date       Mo Da       Yr       B. Time (24 Hr. Clock)         Section III-Termination Action       17. Action to Terminate       Three smoking material's were removed from the mine.         18. Terminated       A. Date       Mo Da       Yr       B. Time (24 Hr. Clock)         18. Terminated       A. Date       Mo Da       Yr       J. Time (24 Hr. Clock)         19. Type of Inspection (activity code)       E0 1       20. Event Number       21. Primary or Mill         22. AR Name       John Do e       02222         MSHA Form 7000-3, Apr 08 (revised)       In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration established a National Small Business and Agriculture RegulatoryOmbudsman and 10 Regional rates each agency's responsiveness to small business. I you wish to comment on the enforcement actions. The Orbudsma nanually evaluates enforcement activities and trates each agency's responsiveness to small business. I you wish to comment on the enforcement actions. The Orbudsma nanually to to 10 Regional trates each agency's responsiveness to small business. I you wish to comment on the enforcement actions. The Orbudsma nanually evaluates enforcement activities and trates each agency's responsiveness to small business. I you wish to comment on the enforcement actions. The Orbudsma nanually tot 16. Resease note, howevery, that your right to										
15. Area or Equipment         16. Termination Due       A. Date       Mo Da       Yr       B. Time (24 Hr. Clock)         Section III-Termination Action         17. Action to Terminate         The smoking material's were removed from the mine.         18. Terminated       A. Date       Mo Da       Yr         4/20/2020       B. Time (24 Hr. Clock)       1257         Section IVAutomated System Data       1257         19. Type of Inspection (activity code)       20. Event Number       21. Primary or Mill         22. AR Name       John Doe       02222         MSHA Form 7000-3, Apr 08 (revised)       In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration of the enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to receive comments from small business. Journet on the enforcement actions of MSHA, you may call 1-888-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business. I you wish to comment on the enforcement actions of MSHA, you may call 1-888-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business. I you wish to comment on the enforcement actions of MSHA, you may call 1-888-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business. I you wish to comment on the enforcement actions of MSHA, you may call 1-888-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business. I you wish to comment on the enforcement actions of MSHA, you may call 1-888-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business.	12. Type of A	Action		13. Type of Iss	uance (check o	ne) Cita	tion 🔲 🛛 C	Order 🗌 🛛 Sa	ifeguard 🗌	Written Notice [
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# Section 104(a): Issued to the Operator (Smoking)

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	4/20/2020	2	1142	E Oranatas		Order Number	1000	0004
4. Served To	Mark Black	tburn, Foreman	1	5. Operator	Moun	tain Momma C	oal	
6. Mine	Mounta	ain Momma Mine	9	7. Mine ID	46-00002			(Contracto
8. Condition	Distance Provide Street					8	3a. Written Not	ice (103g) 🗋
		sive gases su coal bottom r						
9. Violation	A. Health	B. Section of Act		C. Part/Section o Title 30 CFR	1	See Continuation	Form (MSHA Fo	rm 7000-3a) [
0	Other D					75.170	02	
11. Negligen		al: Yes 🗹 A. None 🗌 104 (a.)	No  B. Low  13. Type of Iss	C. Moderate 🔽 uance (check one) E. Citation/	D. High	Order Safeg	ess Disregard	ritten Notice
14. Initial Ac A. Citation			D. Written Notice [ B. Time (24 Hr. Cl	Order Nu	nber			Mo Da Yr
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# Section 314(b): Notice to provide Safeguard(s)

# NOTICE TO PROVIDE SAFEGUARD(S): UNDERGROUND COAL MINES ONLY.

Section 314(b) of the Mine Act is specific to underground coal mine only. The safeguard is intended for use in regards to minimizing haulage and hoisting related hazards with respect to the transportation of men and materials that are identified at a specific mine.

When an inspector identifies a hazard specific to the mine and similar to those identified in 30 CFR, *Subpart O-Hoisting and Mantrips*, Sections 75.1403-2 through 75.1403-11, inspector(s) will issue a notice to provide safeguards to the mine operator if one has not been previously issued.

Section 314(b) is specific to transportation of men and materials, and should not be used outside of that intended scope.

When citing an existing safeguard that has been previously issued to the mine, the originally issued safeguard will be referenced in the number 14 blocks (C, E, and F), and the Initial Action blocks on the Mine Citation/Order Form 7000-3. On a previously issued Safeguard in which the mine has violated their issued notice, item 9C - Part/Section of Title 30 CFR, cite 75.1403.

## Notes: Safeguards

When issuing a citation or order for a previously issued safeguard that has been issued to the mine, (Item #8) Condition and Practice in the original Safeguard has to match the hazard that is identified in that Safeguard.

**For example**: if the original safeguard was issued for reducing the speed of mantrips to a maximum speed limit – then the 104(a) citation/order should address that the mine is being cited for violating the maximum speed that was mandated in the original safeguard.

Because safeguard notices are not conferenced, MSHA issued a policy letter that sets forth procedures for Technical Citations when underground coal mine operators seek to challenge MSHA safeguard notices before the Federal Mine Safety and Health Review Commission.

Hyperlink: PROGRAM POLICY LETTER NO. P14-02 <u>W:\ALLMSHA\DIRECTIV\PPLs 2011-2014\P14-V-02 Technical Citations for</u> <u>Safeguards.pdf</u>

# Section 314(b): Notice to provide Safeguard(s)

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Section IIInspec									/5.1	403-7(1	)	
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11. Negligence	e (check one)	A. None [	]	B. Low	C. Moderat	e 🗆	D. Hi	 gh □	E.	Reckless D	isregard	
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established a Na	ons. The Ombuda	ess and Agricult sman annually e	ure Regulat valuates ent	he provisions of the cory Ombudsman ar forcement activities (1-888-734-3247), o	id 10 Regional I and rates each	Fairness agency	Boards to reo s responsivene	eive com ess to sm	iments from s all business.	mall business If you wish to	es about	federal agency t on the

### Section 104(a): Citation for violation of an existing safeguard

A safeguard issued at an underground coal mine becomes a standard for the mine. Therefore, MSHA can cite the mine for a violation(s) pertaining to the safeguard.

- A. Follow the prescribed guidelines for issuing a 104(a) citation or 104(d).
- B. Best practice is to carry a list of the issued safeguard(s) with you when inspecting. This will allow you to reference the safeguards easily. You will need the safeguard number if a violation of the safeguard is found.

### Notes: **104(a)** Citation of Safeguard(s)

**Item #8.**  $\Box$  Condition and Practice

Item #14. E 
Select the Safeguard Notice Number, click on it. It will auto fill

**Item # 14 D** □, and **14 F** □ will auto fill

# Section 104(a): Citation for violation of an existing safeguard

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1. Date	Mo Da Yr 5/12/2020	2. Time (2	4 Hr. Clock					3	. Citation/ Order Nu	mber	85	533287	8
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6. Mine					7.	Mine ID		1011 11	111119	company	7 22.	1204	ntractor)
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9. Violation	A. Health Safety 2 Other	B. Section of Act				Section of 30 CFR	ſ			inuation Form 5 . 1 4 0 3	n (MSHA	a Form 700	0-3a) 🗖
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#### **CHAPTER 4 -HEALTH CRITERIA**

#### **Documentation of Health Violations**

When health sample results indicate that there has been an overexposure to dust, chemical contaminants, etc., the following information will be documented by the inspector:

- type of contaminant
- amount of exposure as compared to what is allowed
- error factor used
- length of the miner's exposure
- personal protective equipment program (or lack of) implemented by the operator
- type of (or lack of) personal protective equipment worn when the overexposure occurred
- training provided to the miner in the use of the personal protective equipment (if appropriate)
- controls used and their condition
- feasible controls available

### Contaminants with ceiling designations

When there is an overexposure to an airborne contaminant that has a ceiling designation, it is appropriate to issue a 104(a) citation with an abatement time reflecting the time needed to remove miners. Miners shall not reenter the area until the hazardous condition(s) is corrected except for those miners who are working to establish the necessary engineering controls. These miners must wear appropriate personal protective equipment. 30 CFR §§ 56.5001(c) and 56.5005 should be considered as one standard and §§ 57.5001(c) and 57.5005 should be considered as one standard. These should be entered in Item 9C of the Mine Citation/Order Form as §§ 56.5001(c)/56.5005 and §§ 57.5001(c)/57.5005, respectively.

The above situation warrants issuance of a 107(a) imminent danger order only if the concentration(s) measured and the work condition(s) create a situation that is

immediately dangerous to the exposed miners.

### Imminent danger situations involving chemical hazards

## A. IDLH Levels

MSHA considers the atmosphere "immediately harmful to life" whenever a contaminant's Immediate Danger to Life or Health (IDLH) limit is exceeded. The IDLH limits for various contaminants can be found in the "National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards". However, imminent danger situations can exist below IDLH levels due to a miner's length of exposure, work activity, or time to escape. The following procedures shall be utilized whenever a contaminant's IDLH limit, plus the sampling factor, is exceeded:

- 1. A 107(a) order of withdrawal with contributing citations and/or orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation. (See: Chapter 3, Section 104(a) Citation is conjunction with 107(a) Order on page: 36)
- 2. The order of withdrawal requires that all miners be immediately withdrawn from the contaminated atmosphere. The order should note that only those miners wearing appropriate personal protective equipment, and who are working on establishing engineering controls, are permitted to reenter the affected area.
- 3. Additionally, as required by 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any unprotected miner may reenter an atmosphere immediately harmful to life.

# **B.** Other Situations

In some cases an imminent danger may exist even though a contaminant's IDLH limit is not exceeded. Continual exposure at high levels and absorption through all routes of exposure can result in similar harm to miners. The issuance of an imminent danger order may be warranted if dizziness, headaches, slowed reflexes, lack of coordination, or other serious symptoms are shown by miners and are believed to be caused by exposure. Including direct contact, along with consideration of the work environment, and serious physical harm or death may occur. The following procedures are to be implemented whenever there is exposure that may cause serious physical harm or death:

1. A 107(a) order of withdrawal with contributing citations and/or

orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation.

- 2. The order of withdrawal requires that miners be immediately withdrawn from the contaminated atmosphere. It should be noted on the order that only those miners wearing appropriate personal protective equipment, and who are working to establish engineering controls, are permitted to reenter the affected area (Reference as 104(c) personnel).
- Additionally, as required in metal and nonmetal mines under 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any miner enters an atmosphere immediately harmful to life.

**Example:** A miner has been exposed to 700 parts per million (ppm) of carbon monoxide. He has been drilling in the same area for the last four hours. The miner complains of dizziness, headache, nausea, and is uncoordinated or exhibiting severe mental confusion. The miner's partner indicates that he also has similar symptoms. Further investigation reveals that the drill has fallen on both miners three times within the last hour due to their lack of concentration and inability to coordinate drilling activities. Ventilation in the area is not adequate due to holes and blockages observed in the vent tubing providing air into the area.

In both of the above scenarios, due to the high exposure to a contaminant, the length of exposure time, the noted symptoms of miners, the safety hazards associated with incorrectly operating equipment, and the hazardous workplace environment, an imminent danger situation exists. In these cases, inspectors would issue a 107(a) imminent danger order and withdraw affected miners from their workplace.

### Negligence and gravity evaluations - health violations

The following instructions apply to Section II of the Mine Citation/Order Form unless otherwise specified.

# A. Negligence

The degree of negligence is dependent on what the mine operator did **before** MSHA collected the samples that established the violation. Factors to be considered by the inspector include items such as:

1. Whether the mine operator knew or had been told of the high contaminant

level(s);

- 2. The condition of engineering control systems;
- 3. The amounts and accuracy of dust, fume and gas surveys;
- 4. Whether engineering control systems had been provided;
- 5. Whether the operator provided appropriate personal protection, whether it was fit-tested (if appropriate), whether personnel were trained in its use and limitations (if appropriate), and whether it was worn, properly maintained, cleaned.

### B. Gravity

1. **Likelihood**: Consider "Reasonably Likely" or "Highly Likely" if respiratory or hearing protection was not provided; if the respiratory or hearing protection was not adequately maintained; if the individual was not respirator fit-tested; if the person was not trained in the use or limitations of the respirator; or if the protection was not suitable for the hazard. Also, consider "Reasonably Likely" or "Highly Likely" if the respiratory or hearing protection program had deficiencies which caused the personal protection to be inadequate.

**Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metals in the above concentration range cannot be evaluated as S&S. Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m<sup>3</sup> can be evaluated as S&S if adequate respiratory protection was not worn.

Occurrence would be marked as "Unlikely" if appropriate respiratory protection was being worn, was appropriate to the hazard, the miner was respirator fittested, and the mine operator had a respiratory protection program in consistent with ASNI-Z88.2-1969.

2. **Severity**: Overexposure to airborne contaminants and physical agents should be marked according to the severity of the disease they potentially produce.

**Examples:** Respirable Crystalline Silica exposure causes silicosis which is permanently disabling and sometimes fatal; radon daughter (radon

progeny) exposure can cause lung cancer which can be fatal; and excessive noise causes hearing loss which can be permanently disabling.

3. **Number of Persons Affected**: For most situations, indicate the number of miners sampled. There are situations, however, where more workers should be entered in Item 10D of the Mine Citation/Order Form. If other miners perform the same job on different shifts or if several miners rotate during the same shift and perform the identical job, that number should be entered in this box.

**Example:** A day-shift crusher operator is overexposed to respirable crystalline silica. Two other miners operate the crusher on the evening shift. Item 10D would have the number "3" entered for Persons Affected.

## C. Significant and Substantial Violations

The **"Yes"** block in Item 10C must be marked if it is reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of exposure to the contaminant.

The **"No"** block in Item 10C is to be marked if it is not reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as result of exposure to the contaminant.

**Note:** Since all overexposure limits have a likelihood of health impairment, this evaluation is dependent on the use of adequate personal protective equipment.

#### Documentation of airborne contaminant violations

**A. In Item 8 include the following information:** The Threshold Limit Value (TLV) or the exposure limit; the error factor; the contaminant; the concentration; the job title of the person sampled; the equipment and area where the person was working; and the reason for the overexposure. Always include information as to whether or not the miner was wearing approved respiratory protection with an adequate training, fit-testing, and maintenance program. Include a statement noting the sample date which is the date entered as the occurrence date in IAS.

When there is an overexposure to airborne contaminants (except asbestos or those having ceiling limits), sections 56.5001(a) and 56.5005 should be considered as one standard and §§ 57.5001(a) and 57.5005 should be considered as one standard. Therefore, enter the standard in Item 9C as §§ 56.5001(a)/56.5005 and §§ 57.5001(a)/57.5005, respectively.

Similarly, when overexposures are for asbestos, sections 56.5001(b) and 56.5005

should be considered as one standard and \$\$57.5001(b) and 57.5005 should be considered as one standard. Therefore, enter the standard in Item 9C as \$\$ 56.5001(b)/56.5005 and \$\$ 57.5001(b)/57.5005, respectively.

**B.** Standard 56.5005 and standard 57.5005 can be written alone **only** where MSHA requires a respiratory protection program for compliance and the mine operator fails to follow the program's requirements or the overexposed miner is not wearing a respirator where required. Standard 56.5005 and standard 57.5005 can be cited without resampling if:

- 1. The area or equipment in question was observed operating without miner(s) complying with the respiratory protection program mandated by an outstanding citation for dust overexposure; or
- 2. The mine operator had been allowed to operate because all feasible engineering or administrative controls had been implemented but a respiratory protection program was still required by MSHA to gain compliance.

**C.** These citations should be evaluated as S&S if a respirator was not being worn; if the miner sampled had not been properly fit-tested with the respirator being worn; if the respirator was not properly maintained; or if the respirator was not selected in accordance with American National Standards Institute (ANSI) Z88.2-1969. Additionally, there may be other circumstances where the citation should be evaluated as S&S. Inspectors should review ANSI requirements and the circumstances of each case to determine if a citation should be evaluated as S&S.

**Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering or administrative controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as S&S. Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m<sup>3</sup> should be evaluated as S&S if adequate respiratory protection was not worn.

**D.** If approved protection was not being worn, the initial termination due date will be the time necessary for the operator to provide appropriate respirators and develop a respiratory protection program in accordance with ANSI Z88.2-1969.

Inspectors should also include a statement in citations that when a respiratory protection program was implemented in accordance with ANSI Z88.2-1969, the citation will be extended to allow the mine operator time to implement engineering

or administrative controls.

**E.** If an abatement extension is issued, the extension should state what items are required to be accomplished by the abatement due date.

**F.** If resampling has been done and results have not been received, an extension of time is only needed if the termination time is past due.

**G.** When an extension of time is required because MSHA sampling indicated that additional work needs to be completed by the mine operator, inspectors will issue an appropriate extension.

**H.** When resampling results indicate that contaminant levels are in compliance, enterthe date and time the termination was issued in Item 12 of Form 7000-3a.

#### Orders of withdrawal - airborne contaminant violations

A. If appropriate personal protection is being worn but progress has not been made towards compliance, resampling must be conducted to determine if an overexposure still exists before issuing a Section 104(b) order of withdrawal.

B. If the due date and time has passed, a Section 104(b) order of withdrawal must be issued if the operator or contractor has failed to provide appropriate respiratory protection, if the miner was not wearing an appropriate respirator, or if the operator has not implemented an appropriate respiratory protection program. Once an appropriate respiratory protection program is implemented or an appropriate respirator has been provided and/or worn, the Section 104(b) order can be modified to allow work to continue until feasible engineering or administrative controls are implemented.

**Note:** If the operator or contractor can install feasible engineering or administrative controls more quickly than acquiring the respiratory protection, the quicker means of abatement should be required.

A 104(b) order must also be issued if the operator or contractor has failed to implement feasible engineering or administrative controls within the established abatement time and further extension of time is not warranted. Once appropriate engineering controls have been implemented, the 104(b) order can be modified to allow work to continue until resampling is conducted and the results analyzed to determine compliance. The order can be terminated if resampling indicates that the mine operator is in compliance.

C. When an inspector issues a Section 104(b) order of withdrawal, item 8 of the

citation/order form should note, in detail, the reasons for the operator's failure to abate the citation and what must be done to achieve abatement of the condition or practice that caused issuance of the citation. It also should be noted in the 104(b) order, if applicable, that the failure to abate the violation involved a deficiency in the use of personal protective equipment (e.g., respirators).

D. When an operator continues production in violation of a 104(b) order or neglects to abide by the conditions under which the 104(b) order was modified, the inspector must issue a 104(a) citation to the operator for a violation of Section 104(b) of the Mine Act and require, as an abatement condition, that a respiratory protection program be instituted for compliance.

#### Generic wording - chemical contaminant or dust citation

"The (job description) (location description) was exposed to a (shift or time weighted average) of (contaminant) on (sampling date). This exceeded the Threshold Limit Value (TLV) times the error factor of (enter factor). The analytical results were received and the citation was issued on (date citation was issued)."

Include language in the citation regarding the possible sources of the contaminant and any obvious deficiencies of the control systems; the type and condition of any personal protective equipment; and, if a respirator was used, whether or not a respirator program consistent with ANSI Z88.2-1969 was in place. When a respiratory protection program is nonexistent or deficient, state that the abatement time will be extended, if necessary, after a respiratory protection program consistent with ANSI Z88.2-1969 is in place so as to allow a reasonable period for the installation of controls.

# **Health Citations**

# Welding Fume Citation 104(a) S&S

Citati	on 1230006 (Welding Fume Citation S&S)
	Section I – Violation Data
	Box 1 □. <i>Date</i> - This is the date the citation is issued. In most cases this is also the date that the sample results are received, and it was determined that a violation occurred.
	Box 2 $\Box$ . <i>Time</i> - This is the time that the citation is issued.
	<b>Note:</b> IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date, the issue date and occurrence date may be the same.
	Box 8 $\Box$ . <i>Condition or Practice</i> –
	List the metal fume and/or metal dust concentration. List all Threshold Limit Values (TLV) for the metal fume and/or metal dust. List the error factor for each metal fume and/or metal dust. The concentration, TLV and error factor will be provided by the Pittsburgh Safety and Health Technology Center laboratory.

List the mechanism that produced the fume (hot process) or dust (mechanical).

			Mine Safety	and Health .	Administration		<u> </u>
ection IViolation Data . Date Mo Da Yr		12	т <u> </u>		2 (1-1		
.Date MoDa Yr 0/07/2019	2. Time (24 Hr. Cl 1355	OCK)			<ol> <li>Citation/ Order Number</li> </ol>	123000 r	)6
. Served To			5. Operator				
John Doe - Mine N	<i>l</i> anager		Poe Dank	2 2			
. Mine Poe Dank #1			7. Mine ID	36-75309			(Contractor
. Condition or Practice			×	/0 / 0000		8a. Writter	Notice (103g)
fume when sam factor (1.14 for ( was not wearing requirements of	welder was expo pled on 10/01/20 Copper). The wel g a respirator or e ANSI Z88.2-1969 trols and establis	19. This amount lder was air-arch nrolled in a respi Ə. The abatemen	exceeded ing using co rator protect t time is to a	the TLV o opper clad tion progr allow the r	f 1.0 mg/m3 welding roo am meeting nine operat	times th ds. The the	welder
. Violation A. Health Safety Other	B. Section of Act		Part/Section of Fitle 30 CFR	56.	See Continuati 5001(a)/.50		A Form 7000-3a)
ection IIInspector's Evaluatio	n						
0. Gravity:	Gala Ma Libertita and 🗔	United a	Deservable.		E-66.106.	0	
A. Injury or Illness (has) B. Injury or illness could		Unlikely	Reasonably Lik		lighly LIkely	Occu	rred
sonably be expected		ays 🗌 🛛 Lost Workd	lays Or Restricte		Permanently Di		Fatal 🗌
C. Significant and Subst	antial: Yes 🗙	No 🗌		C	). Number of Pers	sons Affected	<sup>I:</sup> 001
1. Negligence (check one)			oderate 🗙			kless Disreg	
				D. High	85 505 62 67 10 10		2019-2019 2019 2019 2019 2019
2. Type of Action 104(a	<u>)                                    </u>	13. Type of Issuance	e (check one)	Citation 🗙	Order Sa	feguard 🔄	Written Notice
4. Initial Action	r 🗌 C. Safeguard 🗌	D. Written Notice 🗌	E. Citation/ Order Numbe			F. Dated	MoDa Yr
A. Citation B. Order						04	
A. Citation B. Order							
5. Area or Equipment 6. Termination Due A. 10	Mo Da Yr Date 8/2019	B. Time (24 Hr. Clock)	1455				
6. Termination Due     A. 10     ection IIITermination Action	Date	B. Time (24 Hr. Clock)	1455				
5. Area or Equipment 6. Termination Due A. 10	Date	B. Time (24 Hr. Clock)	1455				
6. Termination Due A. 10 ection IIITermination Action 7. Action to Terminate 8. Terminate A. Date	Date 8/2019 Mo Da Yr B. Time	B. Time (24 Hr. Clock) (24 Hr. Clock)	1455				
	Date 8/2019 Mo Da Yr B. Time Data	(24 Hr. Clock)		ary or Mill			
6. Termination Due A. 10 ection IIITermination Action 7. Action to Terminate 8. Terminate A. Date	Mo Da Yr B. Time Data 20. Event Number	(24 Hr. Clock)		ary or Mill P			
6. Termination Due A. 10 ection IIITermination Action 7. Action to Terminate 8. Terminate A. Date ection IVAutomated System 9. Type of Inspection	Mo Da Yr B. Time Data 20. Event Number	(24 Hr. Clock)			23. AR Num	ber	

# Welding Fume Citation 104(a) S&S Extension

Citation 1230006-01 (Respirable Dust S&S Extension)

**Section II** – *Justification for Action* 

# WELDING FUME CITATION 104(a) S&S EXTENSION

Section ISubsec	) quent Action/Continuation	ı Data				,		Administratio		4
1. Subsequent	Action 1a. Continuati		2. Dated		Da Yı		tation/	000000 4		
A. Served To			(Original Is:	<sup>sue)</sup> 10/00	8/2019	perator	der Number 1	230006-1		
	- Mine Manager					e Dank				
6. Mine					7. Mi	ne ID	36-75309		(Co	ontractor)
Poe Dank Section IIJustific	No. 19					C	0-70309			
	ls that will redu									
									See C	Continuation Form
	quent Action Taken									
3. Extended To	A. Date Mo Da 10/15/20		3. Time (24 H	<sup>r. Clock)</sup> 06:0	00		C. Vacated	🗌 D. Termina	ated 🗌 E	. Modified
Section IVInspe 9. Type of Insp			nt Number							
ο. τγρε στ msp	CORDIT	I. Eve	an radinber	5000001						
11. Signature			A	R Number	12. Da 10/09	te Mo 9/2019	Da Yr	13. Time (24 1	Hr. Clock) 4:05	

## Welding Fume Citation 104(a) S&S Termination

#### Citation 1230006-02 (Welding Fume Termination S&S)

**Section II** – *Justification for Action* 

When terminating any citation where engineering and administrative controls are installed to reduce exposure, all controls should be listed in the Justification for Action.

# WELDING FUME CITATION 104(a) S&S TERMINATION

I. Subseque	equent Action/Continuation nt Action 1a. Continuation		Dated (Original Issue)		a Yr	3. Citatio	on/ Number	1230006-02	2
. Served To				10/0	8/2019 5. Opera	tor	Number	1230000-02	8
JONN DOE 6. Mine	e - Mine Manage	r			Poe D 7. Mine I				(Contractor)
aatian II - kunti	Poe Dank #1						86-753	609	
time exp por	e-weighted ave osure limit of 1	rage of ( .0 mg/m ume extr	0.8 mg/m3 3 times the actor and h	of coppe error fa nas train	er fume. ictor (1.1 ed the w	This a 4 mg/r elder c	mount is n3). The on its use	s less than the mine operator	sed to a full-shift 1973 ACGIH TLV installed a Shop Welder's
	sequent Action Taken								See Continuation Form [
ection IV-Insp	A. Date	a Yr B.	Time (24 Hr. Cl	ock)			C. Vacated	🔀 D. Terminated	E. Modified
. Type of Ins	(1) (k)	10. Even	t Number 500	0001					
1. Signature	10 Mart 6.		AR NL	10003009090000	12. Date	M₀ E 10/21	)a Yr /2019	13. Time (24 Hr. Cl 09:00	ock)

#### Total Dust Violation 104(a) NS&S

# Citation 1230013 (Total Dust Citation) Section I – Violation Data Box 1. $\Box$ Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued. Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same. **Section II** – *Inspector's Evaluation* Line A. *Injury or Illness (has)(is)*: Unlikely. Line B. Injury or illness could reasonably be expected to be: The illness will be dependent on the material and the exposure. Line C. Significant and Substantial: Per MSHA policy citation for overexposure for a listed nuisance dust cannot be issued as S&S. **Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m<sup>3</sup> and 0.1 mg/m<sup>3</sup>, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard §§ 56/57.5005. However, §§ 56/57.5001/56/57.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as S&S. Overexposure to soluble compounds of silver, such as silver nitrate, and above $0.01 \text{ mg/m}^3$ can be evaluated as S&S. if appropriate respiratory protection was not worn.

# TOTAL DUST VIOLATION 104(a) NS&S

/line Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
ection IViolation Data	
. Date Mo Da Yr 2. Time (24 Hr. Clock 10/10/2019 1200	3. Citation/ Order Number 1230013
. Served To John Doe - Mine Manager	5. Operator Poe Dank
. Mine	7. Mine ID
Poe Dank #1 . Condition or Practice	86-75309 (Contractor 8a. Written Notice (103g)
	d to a shift-weighted average of 29.0 mg/m3 of limestone dust on
particulate). A Respiratory Protection in place. The original abatement da	of 10.0 mg/m3 times the error factor (1.10 for total nuisance on Program meeting the requirements of ANSI Z88.2-1969 was not te has been set to allow the operator time to enroll all effected mine program. The mine operator must establish engineering controls to to less than the TLV.
. Violation A. Health ☐ B. Section Safety of Act	See Continuation Form (MSHA Form 7000-3a) C. Part/Section of Title 30 CFR 56.5001(a)/56.5005
Other	
ection IIInspector's Evaluation 0. Gravity:	
A. Injury or Illness (has) (is): No Likelihood 🗌	Unlikely 🗙 Reasonably Likely 🗌 Highly Likely 🗌 Occurred 🗌
B Injury or illness could rea-	
sonably be expected to be: No Lost Workdays	
C. Significant and Substantial: Yes 🗌 N	D. Number of Persons Affected: 001
1. Negligence (check one) A. None 🗌 B.	Low C. Moderate 🗙 D. High E. Reckless Disregard
2. Type of Action 104(a)	13. Type of Issuance (check one) Citation 🗙 Order 🗌 Safeguard 🗌 Written Notice
4. Initial Action	Written Notice Citation/ Order Number
5. Area or Equipment	
S. Area of Equipment	
6. Termination Due A. Date Mo Da Yr 10/14/2019 B.	Time (24 Hr. Clock) 0800
ection IIITermination Action	0000
7. Action to Terminate	
8. Terminated A. Date MoDa Yr B. Time (24	ŧ Hr. Clock)
ection IVAutomated System Data	
9. Type of Inspection 20. Event Number (activity code) E01	5000001 21. Primary or Mill P
2. Signature	23. AR Number
	provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration h Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency
stablished a National Small Business and Agriculture Regulator, nforcement actions. The Ombudsman annually evaluates enfor nforcement actions of MSHA, you may call 1-888-REG-FAIR (1- treet, SW MC 2120, Washington, DC 20416. Please note, hoo	sement activities and rates each agency's responsiveness to small business. If you wish to comment on the 888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3 ever, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including hearing before the Federal Mine Safety and Health Review Commission.
stablished a National Small Business and Agriculture Regulator, nforcement actions. The Ombudsman annually evaluates enfor nforcement actions of MSHA, you may call 1-888-REG-FAIR (1- treet, SW MC 2120, Washington, DC 20416. Please note, hoo	888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3 vever, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including

# Total Dust Violation 104(a) NS&S Extension

Citation 1230013-01 (Respirable Dust S&S Extension)

**Section II** – *Justification for Action* 

# TOTAL DUST VIOLATION 104(a) NS&S EXTENSION

	ent Action/Continuation							
	ction 1a. Continuatio		. Dated (Original	Mo Ussue) 10/10	Da Yr /2019	3. Citation/ Order Number 12	20013.01	
4. Served To			Cinginal	10/10	5. Operato		-0010-01	
	Mine Manager				Poe Da	ınk		
8. Mine Poe Dank #'	1				7. Mine ID 86-753			(Contractor)
Section IIJustificat	11					7.7		
protect	ne operator h ion program. ering controls	The o	olled e	ffected mind is being ex	ers in an Al tended to a	NSI Z88.2 196	69 compliant re operator time	espiratory to install
Section III-Subsequ 8. Extended To Section IV-Inspecti 9. Type of Inspec	A. Date Mo Da 10/18/20		. Time (24	4 Hr. Clock) 7:0^	1	C. Vacated	D. Terminated	See Continuation Form
E01	tion	10. Eve 5000		r				
11. Signature		-		AR Number	12. Date 10/12/20	Mo Da Yr 10	13. Time (24 Hr. Cl 10:01	ock)
	1 52150 10198 V. 171 Hot				10/12/20	13	10.01	
	a Mar 85 (revised)							
MSHA Form 7000-3								

#### Total Dust Violation 104(a) NS&S Termination

Citation 1230013-02 (Total Dust Citation Termination)

**Section II** – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# TOTAL DUST VIOLATION 104(a) NS&S TERMINATION

ection ISubsequent Action/Continuation [		·	•			
. Subsequent Action 1a. Continuation			Da Yr /10/2019	3. Citation/ Order Number 12	30013-02	
. Served To			5. Operato			
John Doe - Mine Manager . Mine			Poe Da 7. Mine ID			(Contractor)
Poe Dank #1			86-7530			5
ection IIJustification for Action						
The Dry Plant Opera dust was determined error factor of 11.0 n administrative contro ventilation hoods at operator implemente jobs with the Priman miners will perform t	d to be 1.4 ng/m3. T ols upgrad product tra ed a job ro y Crusher	44mg/m3. Thi he operator h ling the seals ansfer points a tation schedu Plant Operato	s shift-weig as installed on the Dry I and installe le that requ or half way 1	hted average and impleme Plant Operato d ventilation h ires the Dry P through their s	is less than th nted engineer r control booth oods on scree lant Operator shifts and ensi	e TLV time the ing and n, installing ens. The mine to exchange
ection IIISubsequent Action Taken						See Continuation Form
. Extended To A. Date Mo Da ection IV-Inspection Data	Yr B. Time	e (24 Hr. Clock)		C. Vacated	X D. Terminated	E. Modified
. Type of Inspection E01	10. Event Nur	<sup>n ber</sup> 500000 <sup>-</sup>	1			
1. Signature	1	AR Number	12. Date 10/24/20	Mo Da Yr 19	13. Time (24 Hr. C 07:02	lock)
SHA Form 7000-3a, Mar 85 (revised)						

#### **Respirable Dust Violation 104(a) Citation NS&S**

## Citation 1230005 (Respirable Dust Non S&S Citation)

Section I – Violation Data

# Box 1. $\Box$ Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

# RESPIRABLE DUST VIOLATION 104(a) CITATION NS&S

								<b>t of Lab</b> Health A	dministra	ation	<u> </u>
ection IViolation	at a second of the							E		7	
. Date 10/20/2019	MoDa Yr	2. Time (	24 Hr. Clock) 1200					8	3. Citation/ Order Nu	umber 123000	)5
. Served To		-				perator					
	- Mine Man	lager				e Dan	K				
. Mine Poe Dank #1					7. M	line ID	86	-75309			(Contractor
. Condition or F	Practice									8a. Writte	en Notice (103g)
for respir complian date has	able free si t respirator	ilica dus y protec o allow t	t samplin tion prog he opera	ng and an Iram and	alysis). was wea	The m ring a	iner v nd ap	was en oproved	rolled in d respira	the error fa an ANSI Z ator. The a ded to redu	288.2-1969 abatement
ection IIInspecto	A. Health Safety Other or's Evaluation	B. Section of Act			C. Part/So Title 30			56.500	See Con 1(a)/.50	tinuation Form (MS	HA Form 7000-3a)
). Gravity: A. Injury or III	lness (has) (is):	No Likelih	ood 🗌	Unlikely 🔀	Rea	sonably L	ikely [	] Hi	ghly Li kely	Occ	urred
	ness could rea-	Nolos	st Workdays		Workdays O	r Restrict	ed Duty		Permanent	tly Disabling 🗙	Fatal
NAME AND ADDRESS OF	e expected to be t and Substantia	. sana na			T TTOIR days O	TRestrict	eu Dur		1 part Manuel Printer Printer	f Persons Affecte	at and the second second
o. olgrinicarii		n. Ye	s No	X				В.	Trainber of	TT ersons Allecte	<sup>.a.</sup> 001
1. Negligence (	(check one)	A. None	B. I	Low	C. Moderat	e 🗙	D	. High 🗌	E	. Reckless Disre	gard 🗌
2. Type of Actio	<sup>on</sup> 104(a)			13. Type of Is	suance (cheo	k one)	Citati	ion 🗙 🛛	Order 🗌	Safeguard 🗌	Written Notice
4. Initial Action A. Citation Г	B. Order	C. Safegu		Vritten Notice	· · · · · · · · · · · · · · · · · · ·	tation/ der Num	• *******			F. Dated	MoDa Yr
5. Area or Equi 6. Termination		Mo Da	۷r								
5. Termination	A. Date	0/2019	" В. Т	līme (24 Hr. C	<sup>(lock)</sup> 120	0					
ection IIITermina 7. Action to Ter	rminate										
B. Terminated	A. Date Mo ated System Data	Da Yr	B. Time (24	Hr. Clock)							
9. Type of Insp (activity code		20. Even 50000	t Number 01			21. Prir	nary or	Mill P			
2. Signature									23. AR	Number	
	3, Apr 08 (revised)	s and Agricult	ure Regulatory valuates enforce	Ombudsman ar ement activities	nd 10 Regional and rates each	Fairness B agency's r	oards to esponsiv	receive con veness to sr	nments from nall business	small businesses a . If you wish to cor	al Ombudsman, 409
established a Natic enforcement action enforcement action	is. The Ombudsm is of MSHA, you m	ay call 1-888-						buidane '-	in addition to	any other rights yo	a under a la more de la

#### **Respirable Dust Violation 104(a) Citation NS&S Termination**

Citation 1230005-01 (Respirable Dust Non S&S Termination)

**Section II** – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# **RESPIRABLE DUST VIOLATION 104(a) CITATION NS&S TERMINATION**

	ent Action/Continuation I ction 1a. Continuatio	_	2. Dated	Ma	) Da	Yr	3. Citati	on(		
X			(Original	A 2014 2014 2014 2014	0/01/2	2019	Orde	Number 12	230005-01	
. Served To John Doe -	Mine Manager					5. Operat Poe Da				
. Mine	<b>.</b>					7. Mine II		86-75	5309	(Contractor)
Poe Dank # ection IIJustifica	20									
silica-be less tha installed The min exchan ensures Dry Pla	earing dust du n the Thresho d. The mine o d ventilation ho ne operator ha ge jobs with th s that no miner	ring a perate pods o s imp e We s will xposu	resamp nit Valu- or has u on prod lemente t Plant perform	ple cond e (TLV) upgraded uct trans ed job ro Operator n the Dry	ucted of 0.5% the s fer po tation r half v / Plan	on 10/0 eals on ints and schedu vay thro Opera	9/202 3. The the E d insta le tha bugh t tor jot	0. This s e operate ry Plant lled ven t require heir shift functior	0 mg/m3 of re shift-weighted s or has implem Operator cont tilation hoods of s the Dry Plan s. The job rot n for more thar n reduced bek	average is ented and/or rol booth, on screens. t Operator to ation schedule n 6 hours. The
ection IIISubseq . Extended To	uent Action Taken	Yr								
ection IVInspect	A. Date	E	в. Time (24	Hr. Clock)				C. Vacated	🗙 D. Terminated	E. Modified
. Type of Inspe E01		10. Eve 5000	ent Num bei )001	ŗ						
1. Signature		10000		AR Number	r	12. Date 10/14/20		Da Yr	13. Time (24 Hr. C 10:30	lock)
	3a, Mar 85 (revised)			•					-	

#### **Respirable Dust Violation 104(a) Citation S&S**

#### Citation 1230001 (Respirable Dust S&S Citation)

**Section I –** *Violation Data* 

Box 1.  $\Box$  Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

# RESPIRABLE DUST VIOLATION 104(a) CITATION S&S

						State and the second second		nt of Lab I Health J		ration		<u> </u>
ection IViolation D	sector a	1940 (20-10) 12								228		
10/	• Da Yr /10/2019	2. Time (	24 Hr. Clock) 1200						3. Citation Order N		123000	1
. Served To John Doe - I	Mine Man	ager			1997-00	operator						
. Mine					7.	Mine ID	75309					(2)
Poe Dank #1 . Condition or Pra	ictice					00-	10000				8a. Writtei	(Contractor) Notice (103g)
The Dry Pla bearing dua m3 times the Protection date has be protection bearing dua	st on 10/0 ne error fa Program een set to program.	)1/2019 actor (1. meeting allow t The mi	when wo 20 for re the requine opera ne opera	orking in th spirable fre uirements o tor time to tor must e	e scre ee silic of ANS enroll	ener a a dust SI Z88. all effe	rea. sam 2-196 ected	This ex oling ar 9 was miners	ceedeo nd analy not in p in a co	d the ysis). blace. omplia	TLV of A Res The ab ant resp	0.25mg/ piratory atement iratory
	Health	B. Section of Act				Section o 30 CFR	f	56.5001	See Co		n Form (MSH	IA Form 7000-3a) [
ection IIInspector's 0. Gravity:	Evaluation											
A. Injury or Illne	ess (has) (is):	No Likelih	ood 🗌	Unlikely 🗌	Re	asonably	Likely	× F	lighly LI kel	у 🗌	Occu	rred
B. Injury or illne	ss could rea- xpected to be:	No Los	t Workdays	Lost V	Vorkdays	Or Restri	icted Du	ty 🗌	Permane	ntly Dis	abling 🗙	Fatal
C. Significant a	2011 X 21 10 10 10 10 10	•	- <b>M</b> N				neropolog - Ro		. Number	of Perso	ons Affected	
		Te				es						
1. Negligence (ch		A. None		Low	C. Mode		14735	D. High		491 - 5257	less Disreg	2052000 2000 VCC
2. Type of Action	104(a)			13. Type of Iss	uance (ch	eck one)	Cita	tion 🗙	Order 🗌	Safe	eguard	Written Notice
4. Initial Action A. Citation	B. Order	C. Safegu	ard D W	Vritten Notice [	100 100	Citation/ Order Nu	mber				F. Dated	MoDa Yr
5. Area or Equipn												
6. Termination Du	ue A. Date	Mo Da 11/10/2		Fime (24 Hr. Clo	<sup>ock)</sup> 1	200						
ection IIITerminatio	on Action		anone:									
7. Action to Term	inate											
	. Date	Da Yr	B. Time (24	Hr. Clock)								
ection IVAutomate	tion	20. Even	t Number	5000001		21. P	rimary o					
9. Type of Inspec	E01			0000001			P		23. AF	RNumb	er	
<ol> <li>9. Type of Inspec (activity code)</li> <li>2. Signature</li> </ol>									4			

# **Respirable Dust Violation 104(a) Citation S&S Extension**

Citation 1230001-01 (Respirable Dust S&S Extension)

**Section II** – *Justification for Action* 

# RESPIRABLE DUST VIOLATION 104(a) CITATION S&S EXTENSION

Mine Citation/Order Continuation			U.S. Department of Lat Mine Safety and Health		
Section ISubsequent Action/C 1. Subsequent Action 1a. (	Continuation Data	l Mo	Da Yr 3. Citation/		
X		nal Issue) 10/10.	/2019 Order Number 1	230001-01	
4. Served To John Doe - Mine M	anager		5. Operator Poe Dank		
6. Mine	4114901		7. Mine ID	(C	ontractor)
Poe Dank #1 Section IIJustification for Action			86-75309		
Sector II-Sustineation for Actio	211				
respiratory pr	erator has enrolled otection program. engineering conti	The citation	ers in an ANSI Z88.2 19 is being extended to allo	69 compliant ow the mine operato	or
				Carl	Continuation Form
Section IIISubsequent Action	Taken			386 (	
3. Extended To A. Date	Mo Da Yr 10/18/2019 <sup>B. Time</sup>	(24 Hr. Clock) 7:01	🗌 C. Vacated	D. Terminated E	E. Modified
Section IV-Inspection Data	10/10/2010	1.01		and a manufacture of the second s	
9. Type of Inspection	10. Event Num	ber			
E01 11. Signature	5000001	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)	
			10/12/2019	10:01	
MSHA Form 7000-3a, Mar 85 (	revised)				
/ISHA Form 7000-3a, Mar 85 (	revised)				

## **Respirable Dust Violation 104(a) Citation S&S Termination**

#### Citation 1230001-02 (Respirable Dust S&S Termination)

Section II – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# **RESPIRABLE DUST VIOLATION 104(a) CITATION S&S TERMINATION**

John Doe - Mine Manager Poe Mine 7. Mine 7. Min	Partor Dank 5309 19 and the shif 0.44mg/m3. The rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	ed average stalled and/or erator has noods on product s implemented job Vet Plant Operator Il perform the Dry
Image: Construct of the second sec	order Number parator Dank 19 and the shif 0.44mg/m3. The rative controls. 10 booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	ft-weighted aver his shift-weighte operator has ins . The mine ope led ventilation h ne operator has e jobs with the V at no miners wil Operator exposu	rage to ed average stalled and/or erator has loods on product implemented job Vet Plant Operator Il perform the Dry
Served To       5. Op         John Doe - Mine Manager       Poet         Mine       7. Mine         Poet Dank #1       86-         ection II-Justification for Action       86-         The Dry Plant Operator was resampled on 10/18/20       respirable silica-bearing dust was determined to be is less than the Threshold Limit Value (TLV) of 0.59         implemented the following engineering and adminis upgraded the seals on the Dry Plant Operator contribution schedule that requires the Dry Plant Operator protation schedule that requires the Dry Plant Operator Plant Operator Plant Operator Schedule that requires the Dry Plant Operator Schedule that requires the Dry Plant Operator Schedule that mode the plant Operator Schedule that Sched	Partor Dank 5309 19 and the shif 0.44mg/m3. The rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	rage to ed average stalled and/or erator has loods on product implemented job Vet Plant Operator Il perform the Dry
Mine         7. Mine           Poe Dank #1         86-           action II-Justification for Action         86-           The Dry Plant Operator was resampled on 10/18/20         respirable silica-bearing dust was determined to be is less than the Threshold Limit Value (TLV) of 0.59           implemented the following engineering and adminis upgraded the seals on the Dry Plant Operator contr         ransfer points and installed ventilation hoods on so rotation schedule that requires the Dry Plant Operator Schedule that Plant Operator Schedule that Plant Operator Schedule that Plant Operator Schedule that requires the Dry Plant Operator Schedule that Plant Operator Sched	<sup>e ID</sup> 5309 19 and the shif 0.44mg/m3. The mg/m3. The or rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	rage to ed average stalled and/or erator has loods on product implemented job Vet Plant Operator Il perform the Dry
Poe Dank #1 86- action II-Justification for Action The Dry Plant Operator was resampled on 10/18/20 respirable silica-bearing dust was determined to be is less than the Threshold Limit Value (TLV) of 0.59 implemented the following engineering and adminis upgraded the seals on the Dry Plant Operator contr transfer points and installed ventilation hoods on soc rotation schedule that requires the Dry Plant Operator half way through their shifts. The job rotation scheder Plant Operator job function for more than 6 hours.	5309 19 and the shif 0.44mg/m3. The mg/m3. The c rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	rage to ed average stalled and/or erator has loods on product implemented job Vet Plant Operator Il perform the Dry
The Dry Plant Operator was resampled on 10/18/20 respirable silica-bearing dust was determined to be is less than the Threshold Limit Value (TLV) of 0.59 implemented the following engineering and adminis upgraded the seals on the Dry Plant Operator contr transfer points and installed ventilation hoods on so rotation schedule that requires the Dry Plant Opera half way through their shifts. The job rotation scheor Plant Operator job function for more than 6 hours.	0.44mg/m3. The c rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	ed average stalled and/or erator has noods on product s implemented job Vet Plant Operator Il perform the Dry
respirable silica-bearing dust was determined to be is less than the Threshold Limit Value (TLV) of 0.59 implemented the following engineering and adminis upgraded the seals on the Dry Plant Operator contr transfer points and installed ventilation hoods on so rotation schedule that requires the Dry Plant Opera half way through their shifts. The job rotation sched Plant Operator job function for more than 6 hours.	0.44mg/m3. The c rative controls. of booth, install eens. The mir or to exchange ule ensures tha The Dry Plant C	This shift-weighte operator has ins operator has ins operator has operator has operator has at no miners will operator expose	ed average stalled and/or erator has noods on product s implemented job Vet Plant Operator Il perform the Dry
ection IIISubsequent Action Taken			See Continuation Form
Extended To A. Date Mo Da Yr B. Time (24 Hr. Clock)	C. Vacated	ed 🗙 D. Terminated	E. Modified
ection IV-Inspection Data Type of Inspection 10. Event Number 5000001			
1. Signature AR Number 12. Da	e Mo Da Yr ∕2019	r 13. Time (24 Hr. 0 07:02	Clock)
SHA Form 7000-3a, Mar 85 (revised)			

# **Respirable Dust Violation 104(b) Order Failure to Abate**

## Citation 1230002 (Respirable Dust 104b Order)

Consult the District prior to issuance of a 104(b) Order for not installing engineering and/or implementing administrative controls.

# **RESPIRABLE DUST VIOLATION 104(b) ORDER FAILURE TO ABATE**

Mine Citation/Order				rtment of Lab ty and Health A		n	
Section IViolation Data							
.Date MoDaYr 10/18/2019	2. Time (24 Hr. Cloc 0800	:k)			3. Citation/ Order Numb	er 123000:	2
. Served To John Doe - Mine Ma	inager		5. Operator Poe Dar	ık			
. Mine Poe Dank #1			7. Mine ID	6-75309			(Contractor)
. Condition or Practice			0	5-75509		8a. Writter	Notice (103g)
There is no justific install engineering to respirable silica removed from the Operator. When t exposure to respir Dry Plant Operato	controls in the s -bearing dust. M area and miners he mine operator able silica-bearin	creen area that iners performin are not allowed can demonstra g dust are bein	would rea g the Dry I to perfor ate that ef	duce the Dry Plant Opera m the duties forts to reduc	Plant Op tor occup of the Dr ce the Dry	erator exp ation are y Plant ⁄ Plant Op	erator
Violation A. Health Safety Other	B. Section of Act		Part/Section of itle 30 CFR		See Continua a)/56.500		IA Form 7000-3a) [
ection IIInspector's Evaluation							
0. Gravity: A. Injury or Illness (has) (is	): No Likelihood 🗌	Unlikely	Reasonably	Likely 🗌 Hi	ghly Likely 🗍		rred
B. Injury or illness could re-	a-						
sonably be expected to I		/s 🔄 Lost Workd	ays Or Restric	ted Duty	Permanently [	Disabling	Fatal 🔄
C. Significant and Substan	ial: Yes 🗌 🏌	No 🗌		D.	Number of Pe	ersons Affected	d:
1. Negligence (check one)	A. None 🗌 🛛 E	3. Low 🗌 🛛 C. M	oderate 🗌	D. High	E.R	eckless Disreg	ard 🗌
2. Type of Action 104(b)		13. Type of Issuance	(check one)	Citation	Order 🗙 S	afeguard	Written Notice
4. Initial Action A. Citation X B. Order ∏	C. Safeguard D	Written Notice	E. Citation/ Order Nun	1230001		F. Dated 10/01/20	 MoDaYr 19
5. Area or Equipment Dry Plant Screen Ar							
6. Termination Due A. Da	MoDaYr te B	. Time (24 Hr. Clock)					
Section IIITermination Action		50 552					
7. Action to Terminate							
8. Terminated A. Date		24 Hr. Clock)					
9. Type of Inspection	20. Event Number		21. Pr	imary or Mill			
(activity code) EO1 2. Signature	5000001			Р	23. AR Nu		
2. Signature					23. AR NU	mber	
ASHA Form 7000-3, Apr 08 (revise stablished a National Small Busin inforcement actions. The Ombuds inforcement actions of MSHA, you street, SW MC 2120, Washingtor ne right to contest citations and pr	ess and Agriculture Regulato man annually evaluates enfor may call 1-888-REG-FAIR (1 , DC 20416. Please note, ho	rcement activities and rate I-888-734-3247), or write th owever, that your right to fil	gional Fairness s each agency's ne Ombudsman e a comment wit	Boards to receive cor responsiveness to sr at Small Business Ac h the Ombudsman is	nments from sma nall business. If ministration, Offi in addition to any	all businesses ab you wish to com ce of the Nationa	out federal agency ment on the Il Ombudsman, 409 3r

#### **Respirable Dust Violation 104(a) Citation** Working In Face Of 104(b) Order

Citation 1230004 (Respirable Dust 104(a) working in the face of the 104b Order)

Consult the District prior to issuance of a 104(b) Order for not installing engineering and/or implementing administrative controls.

# **RESPIRABLE DUST VIOLATION 104(a) CITATION - WORKING IN FACE OF 104(b) ORDER**

line Citation/Order				Department of Safety and He		ninistrati	on	
ection IViolation Data				,				•
.Date MoDa Yr 0/20/2019	2. Time (24 Hr. C 1200	lock)				itation/ order Numi	ber 123000	4
. served To John Doe - Mine Man	ager		5. Ope Poe	<sub>rator</sub> Dank				
. Mine Poe Dank #1			7. Mine	86-7	75309			(Contractor
. Condition or Practice			~~~~				8a. Writtei	Notice (103g)
Plant Operator d Plant Operator jo of Withdraw.	b functions o	n 10/20/2019.	The mir	ne operator	has no	observed to the second	lied with th	he Order
Violation A. Health Safety	B. Section of Act 1	04(b)	C. Part/Sect Title 30 C	Anich conta		See Continu	uation Form (MSH	IA Form 7000-3a)
Other		(0)+0						
ection IIInspector's Evaluation 0. Gravity:								
A. Injury or Illness (has) (is):	No Likelihood 🗙	Unlikely	Reason	nably Likely 🗌	Highl	yLikely [	Occu	rred
B. Injury or illness could rea- sonably be expected to be	. No Lost Work	days 🗙 Lost W	Vorkdays Or F	estricted Duty	Pe	rmanently	Disabling	Fatal
C. Significant and Substantia		No 🗙			SC (00.1797)		ersons Affected	#:004
1. Negligence (check one)	A. None	B. Low	C. Moderate	D. H	igh 🗙	E.F	eckless Disreg	ard 🗌
2. Type of Action 104(a)		13. Type of Issu	uance (check o	one) Citation	X Ord	er 🗌 💠	Safeguard 🗌	Written Notice
4. Initial Action		500	E. Citat		63 	34" - 372	F. Dated	MoDa Yr
A. Citation B. Order	C. Safeguard 📃	D. Written Notice	Orde	r Number				
5. Area or Equipment 6. Termination Due 10/20/20		B. Time (24 Hr. Clo	r <b>ck)</b> 1210					
ection IIITermination Action								
7. Action to Terminate								
				-15				
B. Terminated A. Date Mo	Da Yr B. Time	e (24 Hr. Clock)						
ection IVAutomated System Data								
9. Type of Inspection (activity code) E01	20. Event Numbe 5000001	r	2	1. Primary or Mi: P				
2. Signature						23. AR NI	ımber	
SHA Form 7000-3, Apr 08 (revised)	In accordance with	the provisions of the S	mall Business R	egulatory Enforcem	nent Fairness	s Act of 199	5 the Small Busir	uess Administration h
SHA Form 7000-3, Apr 08 (revised) stablished a National Small Busines		n the provisions of the S atory Ombudsman and						

#### Citation 1230010 (Radon Citation)

Section I – Violation Data

- Box 1.  $\Box$  *Date* This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.
- Box 8. 
  Condition or Practice List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program

**Section II** – *Inspector's Evaluation* 

Box 10. □ - *Gravity* -

Line A. *Injury or Illness (has)(is):* Unlikely vs Reasonable Likely is dependent on whether the miner is wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be*: Radon is a known cause of lung cancer. Lung cancer can lead to permanent disability and is often fatal.

# RADON 104(a) S&S CITATION

					artment of l ety and Heal	-abor th Administrat	ion	
ection I-Violation			New York Contraction NEW					
. Date 0	Mo Da Yr 15/01/2020	2. Time (	24 Hr. Clock) 1500			<ol> <li>Citation/ Order Num</li> </ol>	nber 123001	0
Served To	John Do	be - Min	e Manager	5. Operato	r Po	be Dank		
Mine	P	oe Dank	#1 Underground	7. Mine ID	86-75	5310		(Contractor)
Condition or I	Practice						8a. Writte	n Notice (103g)
daught times tl was da The mi	ers on 5/1/2 he error fac maged and ne operator ion and are	2020. TI tor (1.20 I the #8 I must e	tor in the #5 sectio nis exceeded the m 0) for radon daught booster fan was no nsure that all mine d in a respiratory p	naximum peri er sampling. ot on. The m rs working in	missible ex Several s iner was n the #5 Se	(posure limi ections of v ot wearing : ction wear r	t of 1.00 W entilation t a respirato respiratory	/L :ubing r.
	A. Health Safety Other	B. Section of Act		C. Part/Section of Title 30 CFR	<sup>of</sup> 57.	See Contin 5039	uation Form (MSF	1A Forn 7000-3a) [
ection II-Inspecte D. Gravity:	or's Evaluation							
	lness (has) (is):	No Likelih	ood 📋 🛛 Unlikely 🗌	Reasonably	/ Likely 🔀	Highly Likely	🗌 Occu	irred 🗌
	Iness could rea- e expected to be:	No Los	st Workdays 🗌 🛛 Lost V	Workdays Or Restr	icted Duty 🗌	Permanently	/ Disabling 🔲	Fatal 🔀
	t and Substantial	x.	s 🗙 No 🗌			D. Number of F	Persons Affecte	1:001
1. Negligence	(check one)			C. Moderate	D. Utab	<u> </u>		
		A. None		3 <del>-3</del>	D. High		Reckless Disreg	
2. Type of Acti	× /		13. Type of iss	uance (check one)	Citation 🔀	Order 📋	Safeguard	Written Notice
4. Initial Action A. Citation	B. Order	C. Safegu	ard 📃 D. Written Notice	E. Citation/	mber		F, Dated	MoDa Yr
5, Area or Equ 6. Termination		Mo Da	Yr 1					
J. Termination	Due A. Date	05/05/2	18. Timo (24 Hr. Ch	<sup>ock)</sup> 1200				
ection III-Termin			-					
7. Action to Te	rminate							
B. Terminated	A. Date	Da Yr	B. Time (24 Hr. Clock)					
ection IVAutom 9. Type of Insp	ated System Data pection	20. Even	t Number	21. P	rimary or Mill	— <sub>т</sub> ——		
(activity cod 2. Signature		50000	01		P		lumber	
stablished a Natio	ns. The Ombudsmi	s and Agricult an annually e	dance with the provisions of the S ure Regulatory Ombudsman and valuates enforcement activities a REG-FAIR (1-888-734-3247), or	110 Regional Fairness ind rates each agency	s Boards to receiv 's responsiveness	ecomments from sr to small business.	nall businesses all If you wish to com	bout federal agency mention the

#### Citation 1230010-01 (Radon Termination)

**Section II** – *Justification for Action* 

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# RADON 104(a) S&S CITATION TERMINATION

1: Subsequent Action 1a. Centinuation       2: Dated       Original Issue No       05/01/(2) 201       3: Citation         4: Served To       Original Issue No       05/01/(2) 201       5: Operator       Poe Dank         4: Served To       Solution       Solution       Solution       Solution       Solution         6: Mine       Poe Dank #1 Underground       2: Mine ID       86:75310       (Contractor)         Server 1:-Judificates for Actor       The fan was turned on and the ventilation tubing repaired bringing the concentration of radon daughters when resampled on May 15: 2020. During resampling the miner was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         Sector II:-Subsequet Action       The fan was turned on and the ventilation for 1.00WL times the error factor (1.20) for radon daughter sampling.         Sector II:-Subsequet Action       The fan was turned on and the ventilation for 1.00WL times the error factor (1.20) for radon daughter sampling.         Sector II:-Subsequet Action Taxen       Sector II:-Subsequet Action Taxen         Sector II:-Subsequet Action Taxen       Sector II: Subsequet Action Taxen         Sector II:-Subsequet Action Taxen       Sector II: Subsequet Action Taxen         Sector II:-Subsequet Action Taxen       Sector II: Subsequet Action Taxen         Sector II:-Subsequet Action Taxen       Sector II: Subsequet A	Section IS	Subsequent Action/C	Continuation Data						
is Served To       S. Operator       Poe Dank         3. Mine       Poe Dank #1 Underground       7. Mine ID       86-75310       (Centracter)         3. Mine       Poe Dank #1 Underground       7. Mine ID       86-75310       (Centracter)         3. Mine       Poe Dank #1 Underground       7. Mine ID       86-75310       (Centracter)         3. Mine       Poe Dank #1 Underground       7. Mine ID       86-75310       (Centracter)         3. Mine       Poe Dank #1 Underground       7. Mine ID       86-75310       (Centracter)         3. Mine       Drawstring a fit-lested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.       The fan was turned on and the ventilation tubing repaired privation. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         Settended To a Degrad To Degrad To Degrad To a Degrad To a Degrad To a Degrad To	1. Subse						3. Citation/ Order Number 12	230010-01	
2. Mire       Poe Dank #1 Underground       2. Mire ID       86-75310       (Centractor)         Sector II-Juditication for Addon       The fan was turned on and the ventilation tubing repaired bringing the concentration of radon daughters under the permissible exposure limit. The shuttle car operator was exposed to air containing 0.10WL of radon daughters when resampled on May 15, 2020. During resampling the miner was weating a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         Beter III-Subsequent Action Taken       Sector III-Subsequent Action Taken         Sector IIII-Subsequent Action Taken       Sector III-Subsequent Action Taken         Sector IIII-Subsequent Action Taken       The effect HV for the permission of the sector for the sector factor (1.20) for radon daughter sector factor factor factor (1.20) for radon daughter sector factor fa	. Served		anader		00,0		or		
Redon It-Justiceton tri Action         The fan was turned on and the ventilation tubing repaired bringing the concentration of radon daughters under the permissible exposure limit. The shuttle car operator was exposed to air containing 0.10WL of radon daughters when resampled on May 15, 2020. During resampling the miner was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         Bedon It-Subscripter Action Test and the error factor (1.20) for radon daughter sampling.       Extended to the error factor (1.20) for radon daughter sampling.         Extended It-Subscripter Action Test and the error factor (1.20) for radon daughter sampling.       Extended to the error factor (1.20) for radon daughter sampling.         Extended It-Subscripter Action Test and the error factor (1.20) for radon daughter sampling.       Extended to the error factor (1.20) for radon daughter sampling.         Extended It-Subscripter Action Test and the error factor (1.20) for radon daughter sampling.       Extended to the error factor (1.20) for radon daughter sampling.         Extended It-Subscripter Action Test and the error factor (1.20) for radon daughter sampling.       Extended to the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for radon daughter sampled on the error factor (1.20) for error factor factor factor factor factor facto				eraround		7. Mine II	86-75310		(Contractor)
daughters: under the permissible exposure limit. The shuttle car operator was exposed to air containing 0.10WL of radon daughters when resampled on May 15, 2020. During resampling the miner was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         daughters: where the permissible exposure limit of 1.00WL times the error factor (1.20) for radon daughter sampling.         daughter sampling.	Section II			orground					
Section IIISubsequent Action Taken         3. Extended To       A. Date       Mo       Da       Yr       B. Time (24 Hr. Clock)       C. Vacated       X D. Terminated       E. Modified         Section IVInspection Data         3. Type of Inspection       E01       10. Event Number       5000001         11. Signature       AR Number       12. Date       Mo       Da       Yr       13. Time (24 Hr. Clock)         18.00       18.00       14.00       14.00       14.00       14.00       14.00		daughters u containing the miner w maximum p	under the p 0.10WL of r as wearing permissible	ermissible adon dau a fit-test	e exposure ughters whe ed and appl	limit. The on resamp roved resp	shuttle car ope led on May 15 birator. The am	erator was exp , 2020. During nount is less th	osed to air resampling an the idon
Section IV-Inspection Data       9. Type of Inspection       E01       10. Event Number       5000001       11. Signature       AR Number       12. Date       Mo       Da       Yr       13. Time (24 Hr. Clock)       1800		led To		B Time (24	Hr. Clock)		C Vacated	X D Terminated	E Modified
E01         5000001           11. Signature         AR Number         12. Date         Mo         Da         Yr         13. Time (24 Hr. Clock)           05/15/2020         1800	Section IV-							E B. rommated	
05/15/2020 1800		financetion	E01 <sup>10. E</sup>	vent Number	500000	1			
	I1. Signa	iture	1		AR Number	12. Date		and the second sec	
/ISHA Form 7000-3a, Mar 85 (revised)		7000 0 14 05/	s 25 12			•		•	

# Citation 1230011 (Drill Dust Control Citation)

Section I – Violation Data

Box 8.  $\Box$  - Condition or Practice –

**Note:** Non-compliance with this standard is determined by whether drill dust controls are effective based on the observation of the inspector.

Describe dust condition that led to the determination that drill dust controls were not effective. Describe the material being drilled (soluble or non-water soluble). Describe why current dust controls are not effective. List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program.

**Section II** – *Inspector's Evaluation* 

Box 10. 
Gravity -

Line A. *Injury or Illness (has)(is):* Unlikely vs Reasonable Likely will be dependent on the possibility that the material being drilled contains respirable crystalline <u>silica bearing</u> dust. Check sampling history for the mine and geology of the material being drilled. Line A will be "Unlikely" if the driller is wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be*: if respirable crystalline silica bearing dust is present then silicosis is a possibility. Silicosis is a permanent disability and is often fatal.

Citation 1230011-01 (Drill Dust Controls Termination)

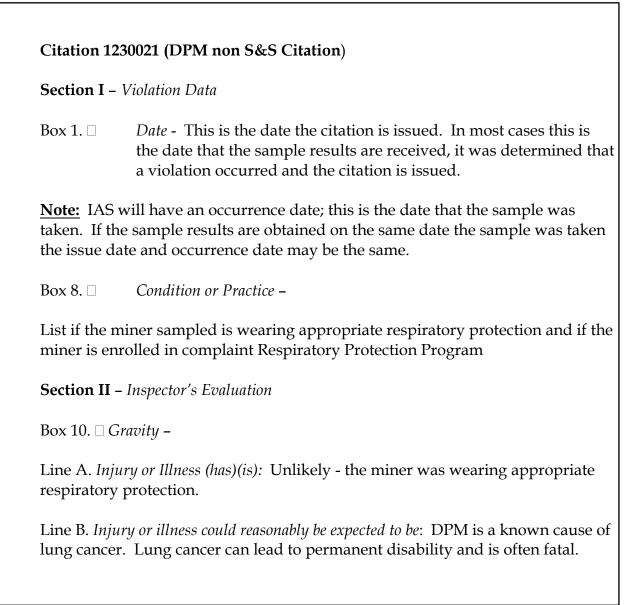
**Section II** – *Justification for Action* 

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# DRILL DUST 104(a) CITATION NS&S

		U.S. Departr Mine Safety a		The second of some	
ection IViolation Data					
. Date MoDa Yr 05/14/2020	2. Time (24 Hr. Clock) 1500		3	3. Citation/ Order Number 1230	011
. Served ™ John Do	be - Mine Manager	5. Operator	Poe [	Dank	
. Mine Pr	oe Dank #1	7. Mine ID	86-7530	9	(Contractor)
. Condition or Practice		*		8a. Wi	ritten Notice (103g)
system was not bein drilling mist system v	aust system on the Furuka ng used. Several pieces o was out of water. The drill and drill helper to excessive	f the dust collect operator was n	tor collar a	pron were missi	ng and the
Violation A. Health A. Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	58.62	See Continuation Form (	MSHA Form 7000-3a) [
ection IIInspector's Evaluation		1			
0. Gravity: A. Injury or Illness (has) (is):	No Likelihood 🗌 Unlikely 🗙	Reasonably Like	alv 🗌 Hi	ghly Likely 🗌 🛛 C	Occurred
B. Injury or illness could rea-					
sonably be expected to be:	No Lost Workdays 📃 🛛 Lost V	Workdays Or Restricted		Permanently Disabling	
C. Significant and Substantial:	: Yes 🗌 No 🗙		D.	Number of Persons Affe	ected: 002
1. Negligence (check one)	A. None B. Low	C. Moderate	D. High 🗙	E. Reckless Di	sregard 🗌
2. Type of Action 104(a)	13. Type of Iss	uance (check one)	Citation 🗙 🤇	Order 🗌 🛛 Safeguard	Written Notice
4. Initial Action A. Citation B. Order	C. Safeguard 🔲 D. Written Notice	E. Citation/ Order Numbe	r	F. Date	ed MoDaYr
5. Area or Equipment				<b>I</b>	
6. Termination Due A. Date	Mo Da Yr 05/15/2020 B. Time (24 Hr. Cl	ock) 08:00			
ection IIITermination Action	1				
7. Action to Terminate The dust exhaust system on the drill are now effective.	e Furukawa 1017 drill was repaired, wat	er was added to the tan	k and the drill m	nist system was turned o	n. Dust controls on the
	Da Yr B. Time (24 Hr. Clock)	0807			
ection IVAutomated System Data					
9. Type of Inspection (activity code) EO1	20. Event Number 5000001	21. Prima	ry or Mill P		
2. Signature				23. AR Number	
	In accordance with the provisions of the 3 s and Agriculture Regulatory Ombudsman and an annually evaluates enforcement activities a	d 10 Regional Faimess Boa	rds to receive con	nments from small businesse	es about federal agency

## Diesel Particulate Matter 104(a) Citation NS&S (DPM)



Section IViolation	n Data														
1. Date 0	Mo Da Yr 5/14/2020	2. Tim	e (24 Hr. ( 15	Clock) 00						3. Cita Oro		nber <b>12</b> 3	30021		
4. Served To	John	Doe - N	ine Ma	inager		5. Ope	erator		Po	e Dan	k				
6. Mine		Poe Dar	nk #1			7. Min	7. Mine ID 86-75309 (C						(Contracto	or)	
8. Condition or	Practice											8a.	Written	Notice (103g)	
Eleme 160 u appro	ental Carl g/M3 time ved fit-te:	oon) of 2 es the sa sted resj	93 ug/ mpling pirator	ator was expos M3. This expo and analytica and a respirate All controls w	sure Il err ory p	e exce or fa protec	eede ctor ctior	ed t °or n pr	he Dies 176 ug/ ogram	sel Pa /M3. T meetii	rticul he m ng the	ate Ma niner w e requ	atter 1 vas wo iireme	C PÈL of earing an ents of 30	
										0					
9. Violation	A. Health Safety Other	B. Sect of Ac				art/Sec tle 30 C		f	57.5060		e Conur			A Form 7000-3a)	
Section IIInspect	or's Evaluation														
	llness (has) (i	·	lihood 🗌	] Unlikely 🔀		Reaso	nably	Likel	у 🗌	Highly I	_lkely		Occur	red	
	Iness could re e expected to		ost Worl	kdays 🗌 🛛 Lost V	Vorkda	ays Or I	Restri	cted	Duty 🗌	-		/ Disablin	-	Fatal 🗙	
C. Significan	t and Substar	ntial:	Yes 🗌	No 🔀						D. Num	ber of I	Persons /	Affected	001	
11. Negligence	(check one)	A. None		B. Low	C. Mo	oderate	X		D. High		E.	Reckless	Disrega	ard	
12. Type of Acti	<sup>on</sup> 104(a)			13. Type of Issu	Jance	(check	one)	С	itation 🗙	Order		Safegua	ird 🗌	Written Notice	
14. Initial Action A. Citation	B. Order	C. Safe	guard 🗌	D. Written Notice		E. Cita Orde	tion/ er Nui	mber				F. C	Dated	Mo Da Yr	
15. Area or Equ	ipment														
16. Termination	Due A. D	ate Mo D	a Yr 5/2020	B. Time (24 Hr. Clo	ock)	152	20								
Section IIITermin	ation Action														
17. Action to Te	rminate														
18. Terminated	A. Date	MoDa Yr	B. Tin	ne (24 Hr. Clock)											
Section IVAutom	ated System Da	ata													—
19. Type of Insp (activity cod		20. Ev 5000	ent Numb	er			21. P	rimar	y or Mill P						
22. Signature		10000								2	3. AR N	lumber			
enforcement actio enforcement actio Street, SW MC 2	onal Small Busi ns. The Ombuc ns of MSHA, yo 120, Washingto	ness and Agri Isman annuall u may call 1-8 n, DC 20416.	culture Reg vevaluates 38-REG-FA Please not	th the provisions of the S ulatory Ombudsman and enforcement activities ar IR (1-888-734-3247), or v e, however, that your right ain a hearing before the	10 Reg nd rates write th nt to file	gional Fa s each ag e Ombuo e a comn	irness gency's dsman nent wi	Board s resp at Sn ith the	ds to receive onsiveness nall Busines Ombudsma	e comment to small bu s Administ an is in ado	s from si isiness. ration, O lition to a	mall busine If you wish office of the	esses abo h to comm e National	out federal agency nent on the Ombudsman, 409	3rd

U.S. Department of Labor

Mine Safety and Health Administration

Mine Citation/Order

## Diesel Particulate Matter 104(a) Citation NS&S (DPM) Termination

#### Citation 1230020-01 (DPM non S&S Citation Termination)

**Section II** – *Justification for Action* 

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

## DIESEL PARTICULATE MATTER 104(a) CITATION NS&S (DPM) TERMINATION

Mine Citation/Order Continuation				epartment of La afety and Health		
ection ISubsequent Action/Continuation I				•		
. Subsequent Action 1a. Continuatio		Mo allssue) 05/14	Da Yr 4/2020	3. Citation/ Order Number 1	230020-01	
. Served To			5. Opera	or		
John Doe - Mine Manager			Poe D	ank		( <b>A</b> )
. Mine <sup>D</sup> oe Dank #1			7. Mine I 86-75			(Contractor)
ection IIJustification for Action			1.2.2.1.2			
The mine operator ha biodiesel. The scaler This citation is termin	operator's e	1 the underg	round ven /el is now	ulation and ha	s started using el Particulate	1 80/20 Matter TC PEL.
Section IIISubsequent Action Taken B. Extended To A. Date Mo Da Section IV-Inspection Data	Yr B. Time (2	24 Hr. Clock)		C. Vacated	D. Terminated	See Continuation Form
. Type of Inspection	10. Event Numbe	er				
E01	5000001	Less: -				resta
1. Signature		AR Number	12. Date	Mo Da Yr 05/19/2020	13. Time (24 Hr. C	lock) 0800
ISHA Form 7000-3a, Mar 85 (revised)			: <b>.</b>			

## Diesel Particulate Matter 104(a) Citation S&S (DPM)

## Citation 1230020 (DPM S&S Citation)

**Section I –** *Violation Data* 

Box 1.  $\Box$  Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

**Note:** IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8.  $\Box$  Condition or Practice –

List if the miner sampled is wearing appropriate respiratory protection and if the miner is enrolled in complaint Respiratory Protection Program.

**Section II** – *Inspector's Evaluation* 

Box 10. Gravity –

Line A. *Injury or Illness (has)(is):* Reasonable Likely - the miner was not wearing appropriate respiratory protection.

Line B. *Injury or illness could reasonably be expected to be*: DPM is a known cause of lung cancer. Lung cancer can lead to permanent disability and is often fatal.

Section IVic	Dialion Dala						
1. Date	Mo Da Yr 05/14/2020	2. Time (24 Hr. Clock) 1500			<ol> <li>Citation/ Order Number</li> </ol>	r 1230021	
4. Served T		e - Mine Manager	5. Operator	Poe	Dank		
6. Mine	Po	be Dank #1	7. Mine ID	86-753	09	(Contractor)	)
8. Condition	n or Practice					8a. Written Notice (103g)	

On 05/01/2020 the operator of front end-loader H3456 was exposed to an equivalent 8 hour-SWA of adjusted Total Carbon of 239 ug/M3. This validated exposure exceeded the Diesel Particulate Matter TC PEL of 160 ug/M3 times the sampling and analytical error factor for one area sample or 202 ug/M3. Respiratory protection was not being used and a respiratory protection program meeting the requirements of 30 CFR 57.5060(d) was not in place. All feasible controls were not in use to control the employee's diesel particulate exposure. When a respiratory protection program is in place the abatement date will be extended to allow the mine operator to install controls.

							See Co	ntinuation Form (MSF	IA Form 7000-3a)
9. Violation A. Healt Safe Oth	ty	B. Section of Act		C. Part/Se Title 30		57.5060	)b3		
Section IIInspector's Eval	uation								
10. Gravity:									
A. Injury or Illness (I	nas) (is):	No Likelihood	Unlikely	Reas	sonably Li	kely χ	Highly Llkel	y 🗌 Occu	rred
B. Injury or illness construction sonably be expected as a second structure of the second structure		No Lost Wo	rkdays 🗌 🛛 Lost V	Workdays O	r Restricte	ed Duty 🗌		ntly Disabling	Fatal 🗙
C. Significant and S	ubstantial:	Yes 🗙	No 🗌				D. Number of	of Persons Affected	<sup>d:</sup> 001
11. Negligence (check	one) /	A. None 🗌	B. Low	C. Moderat	e 🗙	D. High		E. Reckless Disreg	ard
12. Type of Action 104	4(a)		13. Type of Iss	uance (cheo	k one)	Citation 🗙	Order	Safeguard	Written Notice
14. Initial Action A. Citation B. C	order	C. Safeguard 🗌	] D. Written Notice [	-	tation/ der Numb	er		F. Dated	Mo Da Yr
15. Area or Equipment	T	Mo Da Yr							
16. Termination Due	A. Date	05/25/2020	B. Time (24 Hr. Clo	<sup>ock)</sup> 15	520				
Section IIITermination Ac	tion								
17. Action to Terminate	9								
18. Terminated A. Dat	e Mo D	a Yr B. Ti	me (24 Hr. Clock)						
Section IVAutomated Sys	tem Data								
19. Type of Inspection (activity code)	E01	20. Event Num 5000001	ber		21. Prim	ary or Mill P			
22. Signature						·	23. AF	R Number	
MSHA Form 7000-3, Apr 0 established a National Sma enforcement actions. The enforcement actions of MS Street, SW MC 2120, Wa	all Business a Ombudsmar HA, you may	and Agriculture Rep annually evaluate annually evaluate	s enforcement activities a AIR (1-888-734-3247), or	1 10 Regional and rates each write the Omb	Fairness Bo agency's re oudsman at	ards to receive sponsiveness Small Busines	e comments from to small busines s Administration	n small businesses ab ss. If you wish to com , Office of the Nationa	oout federal agency ment on the al Ombudsman, 409 3rd

the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

# Diesel Particulate Matter 104(a) Citation S&S (DPM) Extension

Citation 1230020-01 (Respirable Dust S&S Extension)

**Section II** – *Justification for Action* 

## DIESEL PARTICULATE MATTER 104(a) CITATION S&S (DPM) EXTENSION

ection ISubsequent Ac	tion/Continuation	Data			Mine of	afety and Health A	annioration	
. Subsequent Action			Dated (Original		Da Yr /2020	3. Citation/ Order Number 12	30020-01	
. Served To	Managar				5. Opera	or		
John Doe - Min Mine	e manager				Poe D 7. Mine II			(Contractor)
<sup>⊃</sup> oe Dank #1					86-753	809		2
ection IIJustification fo	r Action							
with 30 CF	R 57.506	0(d). T	he cita	ation is being	g extende	spiratory protec d to allow the r Diesel Particul	nine operator	that is compliant time to install PEL.
ection IIISubsequent A	ction Taken							See Continuation Form
. Extended To A. Da ection IV-Inspection Da	<sup>Mo Da</sup> 1 <sup>te</sup> 06/20/2	020 B	Time (24	<sup>. Hr. Clock)</sup> 7:01	[	C. Vacated	D. Terminated	E. Modified
. Type of Inspection EO1	14	10. Ever 50000	nt Number )01	(				
1. Signature				AR Number	12. Date	Mo Da Yr 05/20/2020	13. Time (24 Hr. Cl 10:01	ock)
SHA Form 7000-3a, Ma	r 85 (revised)							

## Diesel Particulate Matter 104(a) Citation S&S (DPM) Termination

## Citation 1230020-02 (DPM Citation Termination)

**Section II** – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure all controls that are being used must be listed in the Justification for Action.

# DIESEL PARTICULATE MATTER 104(a) CITATION S&S (DPM) TERMINATION

Mine Citation/Order Continuation		U.S. Department of Labo Mine Safety and Health Ac	
ection ISubsequent Action/Continuation . Subsequent Action 1a. Continuation	n 2.Dated N	lo Da Yr 3. Citation/	
	(Original Issue)	05/14/2020 Order Number 123	30020-02
. Served To John Doe - Mine Manager		5. Operator Poe Dank	
. Mine		7. Mine ID	(Contractor)
Poe Dank #1 ection IIJustification for Action		86-75309	
The mine operator h biodiesel. The front- TC PEL. This citatio	end-loader operator's	lerground ventilation and has a exposure level is now below	started using 80/20 the Diesel Particulate Matter
ection IIISubsequent Action Taken . Extended To Mo Da	Yr		
A. Date	B. Time (24 Hr. Clock)	C. Vacated	X D. Terminated 🗌 E. Modified
. Type of Inspection E01	10. Event Number 5000001		
1. Signature	AR Numb	er 12. Date Mo Da Yr 06/19/2020	13. Time (24 Hr. Clock) 0800
1SHA Form 7000-3a, Mar 85 (revised)			

## Dust, Gas, Mist and Fume Surveys Underground 104(a) S&S Citation

## Citation 1230016 (.5002 Citation)

Box 8.  $\Box$  Condition or Practice –

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.

**Section II** – *Inspector's Evaluation* 

Box 10.  $\Box$  Gravity –

Line A. *Injury or Illness (has)(is):* Unlikely vs Reasonable Likely is dependent on miners potential exposure (length and/or concentration) to the contaminant.

Line B. *Injury or illness could reasonably be expected to be*: Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found.

# DUST, GAS, MIST AND FUME SURVEYS UNDERGROUND 104(a) S&S CITATION

Mine Citati	on/Order					artment o ety and He		20 10 10 10 10	tion	
ection IViola	tion Data					,				•
. Date	Mo Da Yr 05/14/2020	2. Time (2-	4 Hr. Clock) 1501				3	. Citation/ Order Nu	mber 123001	6
. Served To	John D	oe - Mine	Manager		5. Operator		Poe E	Dank		
. Mine	F	oe Dank #	1		7. Mine ID	86-	75309	9		(Contractor
Condition	or Practice								8a. Writte	n Notice (103g)
provideo	e operator w d ventilation nant levels w on.	controls	were ade	quate to	prevent	exposu	re to	mine	gases. E	levated
. Violation	A. Health Safety Other	B. Section of Act			art/Section o tle 30 CFR		5002	See Conti	nuation Form (MSH	HA Form 7000-3a)
	ector's Evaluation									
0. Gravity:	r Illness (has) (is):	No Likeliho	ad 🗆 🛛 🗤	ikely	Reasonably	Likaly M	Liz	hly Likely		ırred
0	r illness could rea-	NO LIKEIIIIO			Treasonably		1 115			
	be expected to be	No Lost	Workdays 🗌	Lost Workda	ays Or Restr	icted Duty		o navel and a second second second	y Disabling 🗌	Fatal 🗙
C. Signific	ant and Substantia	l: Yes	🗙 No 🗌				D.	Num ber of	Persons Affecte	<sup>d:</sup> 001
11. Negligen	ce (check one)	A. None	B. Low [	C. Mo	derate 🗙	D. Hi	igh 🗌	E.	Reckless Disreg	gard 🗌
12. Type of A	ction 104(a)		13. Ту	pe of Issuance	(check one)	Citation	X	order 🗌	Safeguard 🗌	Written Notice [
14. Initial Act A. Citation		C. Safegua	d 🗌 D. Written	Notice	E. Citation/ Order Nu	mber			F. Dated	MoDa Yr
15. Area or E	quipment								•	
16. Terminati	on Due A. Date	Mo Da Y	IR Time (	24 Hr. Clock)	0800					
Section IIITer	mination Action	05/15/20	20		0000					
17. Action to	<sup>Terminate</sup> The m	ne operator jases are a	is now samplin dequate.	g for mine gas	es to ensu	re that cont	rols use	ed to mini	mize miner exp	oosure to
18. Terminat	A. Date 05/14	Da Yr 1/2020	3. Time (24 Hr. C	lock) 16	D0					
Section IVAut	omated System Data	20. Event	lumber		21 🗖	rimary or Mi	II.			
(activity o	ode) E01	500000			21. F		P			
22. Signature								23. AR I	Number	
established a N enforcement ac	100-3, Apr 08 (revised) ational Small Busines tions. The Ombudsm tions of MSHA, you m	s and Agricultur an annually eva	e Regulatory Ombu luates enforcement	dsman and 10 Reg activities and rates	ional Fairness each agency	Boards to rec s responsiven	eive com ess to sm	ments from s all business.	mall businesses al If you wish to com	ment on the

Hazardous Gas 104(a) Citation S&S

## Citation 1230015 (CO Mine Gas Citation)

**Section I –** *Violation Data* 

Box 1.  $\Box$  Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8.  $\Box$  Condition or Practice –

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.

**Section II** – *Inspector's Evaluation* 

Box 10.  $\Box$  Gravity –

Line A. *Injury or Illness (has)(is*): Unlikely vs Reasonable Likely is dependent on the miner's exposure (length and/or concentration) to the contaminant.

Line B. *Injury or illness could reasonably be expected to be*: Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found.

# HAZARDOUS GAS 104(a) CITATION S&S

	on/Order				partmer fety and		o <b>or</b> Administra	tion	
ection IViolati	1200000000000000								
. Date	Mo Da Yr 05/14/2020	2. Time (24 Hr. C 150					3. Citation/ Order Nu	mber 123001	5
. Served To	John Do	be - Mine Mar	nager	5. Operat	or	Poe	Dank		
. Mine	P	oe Dank #1		7. Mine II	) 6	6-753	)9		(Contractor)
. Condition o	r Practice							8a. Writter	n Notice (103g)
an MSA permissi	Altair Multi-g ble excursior	e level in drift las Monitor. T n limit of 400 p e sample was	his exposes opm for a 15	the loader of	perato	r in this	drift to C	CO levels o	ver the
. Violation	A. Health Safety Other	B. Section of Act		C. Part/Sectior Title 30 CFF	002	7.5001(a		nuation Form (MSH	IA Form 7000-3a) [
ection IIInspe 0. Gravity:	ctor's Evaluation								
	Illness (has) (is):	No Likelihood 🗌	Unlikely	Reasonat	oly Likely	X +	lighly LI kely	Occu	rred 🗌
	illness could rea- be expected to be:	No Lost Workd	lays 🗌 🛛 Lost	Workdays Or Res	tricted Du		1 printer and the second product	y Disabling 🗌	Fatal 🗙
C. Significa	ant and Substantial	: Yes 🗙	No 🗌			C	. Number of	Persons Affected	<sup>d:</sup> 001
1. Negligenc	e (check one)	A. None	B. Low	C. Moderate 🗙		). High 🗌	] E.	Reckless Disreg	ard
2. Type of A	<sup>ction</sup> 104(a)		13. Type of Is	suance (check on	e) Citat	ion 🗙	Order 🗌	Safeguard 🗌	Written Notice
4. Initial Action A. Citation		C. Safeguard	D. Written Notice	E. Citation				F. Dated	MoDa Yr
5. Area or Eo	quipment							<b>I</b>	
6. Terminatio	on Due A. Date	Mo Da Yr 05/14/2020	B. Time (24 Hr. C	<sup>llock)</sup> 1520					
ection IIITerm									
7. Action to 1	The fill	ne operator impro ion controls with a		ntilation and red	uced the	CO level	below the T	LV, along with	retraining for
8. Terminate		Da Yr H/2020 B. Time	e (24 Hr. Clock)	1515					
ection IVAuto 9. Type of In	mated System Data	20. Event Numbe	r	21	Primary o	r Mill			
(activity co		5000001		21.	T filling o	P			
2. Signature							23. AR I	Number	
		and Agriculture Regul	the provisions of the atory Ombudsman ar nforcement activities	nd 10 Regional Fairne	ss Boards to sy's respons	o receive co iveness to s	mments from s mall business.	small businesses ab If you wish to com	

## Hydrogen Chloride Levels 104(a) S&S Citation

## Citation 1000004 (Hydrogen Chloride)

**Section I –** *Violation Data* 

Box 1.  $\Box$  Date - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.

Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.

Box 8.  $\Box$  Condition or Practice –

Describe the area and/or miner sampled and the sample method. List the sample concentration, the sample method error factor and the TLV for the contaminant. List, if applicable, if the miner(s) was wearing appropriate respiratory protection and if the miner(s) was enrolled in a compliant respiratory protection program.

**Section II** – *Inspector's Evaluation* 

Box 10.  $\Box$  Gravity –

Line A. *Injury or Illness (has)(is*): Unlikely vs Reasonable Likely is dependent on the miner's exposure (length and/or concentration) to the contaminant.

Line B. *Injury or illness could reasonably be expected to be*: Degree of injury is dependent on the potential health effect of the contaminant at the level of exposure found

# HYDROGEN CHLORIDE LEVELS 104(a) S&S CITATION

	Mo Da Yr	2. Time (	(24 Hr. Clock)						
. Served To	5/18/2020		0828	5.0	aratar		Order Numb	ber	1000004
. Served To	Joe Howell	- Owne	er	5.0	perator	10-4	INC		
. Mine	75			7. M					(Contractor)
. Condition o	Mine #4 r Practice			41-00112         Ba. Written Notice (103g)         ot acid in the assay laboratory where the measured parts per million), which is almost at the immediatel vel of 50 ppm. A sample was taken in the operator's ffusion tube. The measured exposures are approaching drogen chloride is 5 ppm, and an oral imminent danger atory supervisor, at 0828 hours this date. The protection and complained of eye and throat         minent danger order No. 1000005       See Continuation Form (MSHA Form 7000-3a)         C. Part/Section of Title 30 CFR       57. 5001 (a) / .5005         V Reasonably Likely Highly Likely * Occurred □         Lost Workdays Or Restricted Duty □       Permanently Disabling □       Fatal * □         D. Number of Persons Affected:       001         cf Issuance (check one)       Ottation ?       F. Dated       Mo Da Y         of Issuance (check one)       Citation ?       F. Dated       Mo Da Y         Hr. Clock)       21. Primary or Mill       E. Citation/       The Date       Mo Da Y					n Notice (103g) 📋
hydroger dangerou work are fatal le from the order wa technici irritati	n chloride i is to life a ea for an he evels. The e lab when i as issued to an was not on.	levels and hea our wit: ceiling levels b Becky wearing	were 35 ppm (par lth (IDLH) level h a Drager diffu limit for hydro exceeded the cei Mills, laborato g respiratory pr	ts per m of 50 pj sion tub gen chlo ling lim ry super otection	illion) om. A s e. The ride is it of S visor, and co	, which a sample was measured 5 ppm. 1 5 ppm, and at 0828 h omplained	is almost s taken i exposure The techn d an oral nours thi of eye a	at the n the op s are ap ician wa imminen s date.	immediately erator's proaching s removed t danger The
. Violation	A. Health □ Safety □ Other □	B. Section of Act					-		12
ection IIInspe	ctor's Evaluation						57.5001	(a)/.300	5
C. Significa 1. Negligenc	be expected to be ant and Substantia e (check one)	12	ns ☑ No □ B. Low □	C. Moderat	e V		1		100
	101100/00/	104(a)	13. Type of Is		10 10 10	Citation 🖌	Order 🗌 🛛 S		Written Notice
4. Initial Action	on B. Order		13. Type of Is	E. Cit	ation/		Order 🗌 S		Written Notice [
<ol> <li>Type of Additional Action</li> <li>Citation</li> <li>Area or Edition</li> <li>Area nor Edition</li> </ol>	n B. Order	C. Safegu Mo Da Y	ard D. Written Notice	E. Cit Or	ation/		Order 🗌 🗧		16.7 207 21.5
4. Initial Actio A. Citation 5. Area or Ec 6. Terminatio	n B. Order ] uuipment	C. Safegu Mo Da Y	ard 🔲 D. Written Notice	E. Cit Or	ation/		Order 🗌 S		10.1 10.1 10.1
4. Initial Action A. Citation 5. Area or Eco 6. Termination ection IIITermination	B. Order	C. Safegu Mo Da Y	ard D. Written Notice	E. Cit Or	ation/		Order 🗌 S		20.0 20.0 20.0
4. Initial Actio A. Citation 5. Area or Ec 6. Terminatic ection IIITerm 7. Action to 1 8. Terminate	B. Order auipment A. Date A. Date d A. Date Mo	C. Safegu Mo Da Y	ard D. Written Notice	E. Cit Or	ation/		Order   5		10.1 10.1 10.1
4. Initial Action A. Citation 5. Area or Ec 6. Termination ection III-Term 7. Action to 1 8. Terminate ection IVAuto 9. Type of In	an Due A. Date nination Action ferminate d A. Date Mo mated System Data spection	C. Safegu Mo Da Y	r B. Time (24 Hr. C	E. Cit Or	ation/ der Numbe	r	Order  S		10.1 10.1 10.1
4. Initial Actio A. Citation 5. Area or Ec 6. Terminatic ection IIITerm 7. Action to 1 8. Terminate	an Due A. Date nination Action ferminate d A. Date Mo mated System Data spection	C. Safegu Mo Da Y	ard D. Written Notice	E. Cit Or	ation/ der Numbe	r ny or Mill		F. Dated	16.2 307 313

# HIGH WALL DRILL DUST COLLECTION 104(a) CITATION

ection I-Violat	ion Data								
. Date	Mo Da Yr 5/6/2020	2. Time (24 Hr. C	ock) 1020	Ĩ			3. Citation/ Order Nur	nber f	3533283
. Served To		ish, Mine Ma		5. Oj	perator	Correct all		52 VCID-07	13106
. Mine	1011-			7. Mi	ne ID	Cornisn	Mining C	ompany, Ll	C. (Contrac
. Condition o	1.00.000	rnwall Mine			05	5-01234		8a. Writter	n Notice (103g)
not effe observed passing collect: several replaced	ective in c d being emi over the b ion system places and ment. This	n system prov ontrolling the tted from ben laster, hole revealed that the bushing highwall dri: drill is, ty	ne dust prod neath the du loader neau the skirti material be ll was observed	luced du rill tab rby, and ing mate stween th rved dri	ring t le and blast rial p he dri lling b	ne drilli a visibl foreman. rovided c ll steel noles alc	ng proce e dust c An exam on the dr and dril ong the #	ss. Visibl loud was of ination of ill table l table no 6 highwall	Le dust wa observed the was torn weded
. Violation	A. Health Safety Other	B. Section of Act		C. Part/Se Title 30				nuation Form (MSF 2.620	IA Form 7000-3a)
ection II-Inspe 0. Gravity:	ector's Evaluation								
	r Illness (has) (is):	No Likelihood 🗌	Unlikely 🗹	Reas	onably Lik	ely 🗌 🛛 I	Highly Llkely	Occu	rred 🗌
	r illness could rea- be expected to be	: No Lost Workd	ays 🛛 🛛 Lost	Workdays Or	Restricted	i Duty 🗌	Permanently	/ Disabling 🗹	Fatal 🗌
C. Signific:	ant and Substantla	il: Yes 🗌	No 🖌			3	D. Number of I	Persons Affected	t: 003
1. Negligenc	e (check one)	A. None 🗌	B. Low	C. Moderate	• ∡	D. High	] <b>E.</b>	Reckless Disreg	ard 🗌
2. Type of A	ction	104(a)	13. Type of Iss	suance (chec	k one)	Citation 🔽	Order	Safeguard 🗌	Written Notic
4. Initial Action		C. Safeguard	D. Written Notice		ation/ der Numbe	ur.	100.000	F. Dated	Mo Da
5. Area or Ea 6. Terminatio	· · ·	Mo Da Yr		leek)					
ontion III Tr-	A. Date	5/6/2020	B. Time (24 Hr. Ci		1225				
7. Action to The dril	Terminate	ved from serv eplaced	vice and the	e skirti:	ng mate	erial rep	laced. T	he drill s	steel
8. Terminate		6/2020 B. Time	(24 Hr. Clock)	1200					
9. Type of In (activity co	spection	20. Event Numbe	r 4262847		21. Prima	ary or Mill			
2. AR Name		<u> </u>					23. AR N	lumber	
	00-3, Apr 08 (revised) ational Small Busines	s and Agriculture Regul		d 10 Regional F	aimess Boa	inds to receive c	omments from s	mall businesses at If you wish to com	out federal agenc

## 104(a) Citation 30 CFR 71.100(b) for DWP

## Citation 8533284

**Section 1** – *condition or practice* 

**Note:** Use the lab analysis sheet for information within the citation.

## 104(a) CITATION 30 CFR 71.100(b) FOR DWP

ection I-Violati	on Data						<b>,</b>	and Health			
. Date	Mo Da Yr	2. Time (	24 Hr. Clock)				3.	Citation/			
One and Te	5/6/2020	201 - 1451 - 154	1032		C. Oranata			Order Number	. 8	3533284	
. Served To	Shane Corn	ish, Mi	ne Manager		5. Operator		ish M	ining Com	pany, LI	SC.	
. Mine	Co	rnwall N	line		7. Mine ID	05-0123	34			(Co	ntractor
. Condition o	r Practice								8a. Writter	n Notice (1	03g) 🗌
Position 2.7 mg/m the #3 I day and in the e then sam	1, 2020, ind 1 002-0-384 13 which exc Ingersoll R afternoon : environment ple each p Pittsburgh 1 ation.	) is exp ceeds th and High shifts. of the roduction	posed to an ne allowab wall Dril The mine #3 Ingers on shift u	n average n le exposure l (S/N 04-1 operator mu oll Rand Hi ntil five v	respirab e of 1.5 12345) w 1st take ighwall valid sa	le dust mg/m3. hich is immedia Drill op mple hav	conce These norma ate ac perate	entration e samples ally oper ction to or to 1.5 en collec	of were co ated on lower th mg/m3 c ted and	ollecte both t ne expo or less submit	d on he sure and ted
. Violation	A. Health 🛛 Safety 🗆 Other 🗆	B. Section of Act			Part/Section of itle 30 CFR	of		See Continuati 71.10		IA Form 700	0-3a) 🗌
	ctor's Evaluation							10780.CM			
0. Gravity:	Illness (has) (is):	No Likelih	and 🗆 🔲	nlikely 🗌	Reasonably	Likoh 🔽	Hia	hiy Likely 🗌	0001	rred	
states and an and a second second	illness could rea-						-				_
	be expected to be	: No Los	t Workdays 🛛	Lost Workd	ays Or Restr	icted Duty	100 000 11 00000000	ermanently Dis		Fatal	
C. Significa	ant and Substantia	l: Ye	s 🗹 🛛 No 🗌				D. I	Number of Pers	ions Affected	1: (	002
1. Negligenco	e (check one)	A. None	B. Low	C. Ma	oderate 🖌	D. Hi	gh 🗌	E. Rec	kless Disreg	ard 🗌	
2. Type of Ac	tion	104(a)	13.	Type of Issuance	(check one)	Citation	<b>Z</b> 0	rder 🗌 Sa	eguard 🗌	Written I	Notice
4. Initial Actio A. Citation		C. Safeou	ard 🔲 D. Writt	en Notice 🗆	E. Citation/ Order Nu	mber	- 07.	100000	F. Dated	Mo [	Da Yr
5. Area or Ec	quipment								L		
6. Terminatio	n Due A. Date	Mo Da		(24 Hr. Clock)	1000						
ection III-Term	ination Action	5/16/3	2020	8	1032	2					
7. Action to T	ferminate										
8. Terminate	A. Date Mo	Da Yr	B. Time (24 Hr.	Clock)							
	mated System Data		h han ha -								
9. Type of In: (activity co		20. Even	4262	847	21. F	rimary or Mil	ľ				
2. AR Name								23. AR Num	ber		
stablished a Na nforcement acti	0-3, Apr 08 (revised) ational Small Busines ions. The Ombudsm	s and Agricult an annually ev	ure Regulatory Oml aluates enforceme	nt activities and rate	gional Faimes s each agency	Boards to rec 's responsivery	eive com	ments from small	businesses ab u wish to com	out federal a ment on the	gency

# 104(a) Citation 30 CFR 70.100(a)(2) for DO & NDO

## **Citation 1000007**

**Section 1** – *condition or practice* 

**Note:** Use the lab analysis sheet for information within the citation.

## 104(a) CITATION 30 CFR 70.100(a)(2) FOR DO & NDO

										rtment of v and H		or Administr	ation	
Section IViolation	Data					, <i>0</i> 0				,				
	MoDaYr 3/4/2020	2. Time (:	24 Hr. Clo C	ck) 900						3. Citation Order N			10000	)7
4. Served To N	MARK BLACKB	URN, FOR	EMAN			5. 0	perator		OUNTAI	N MOMME	COAL	MINE		
6. Mine	MOLT	ITA IN MON	MA MINE			7. N	line ID	01-234	5				(	Contracto
8. Condition or P								01201	5			8a. Writte	n Notice	(103g) ·
Authorize of respir 001-0 MMU standard. Under the submit, a	the result d Represen able dust was 1.941 authority t least 48 will begin	tative in the mg/m3 of 30 hours	of the workin which CFR, 7	e Secret ng envin exceeds 70.201(f	tary conme the ) th	of Lak nt of 1.79 e Dist	for o the mg/m	n Febr contin 3 ECV, Manag	uary : uous f there ér rec	24th, miner e by e quests	2020, opera xceed that	the c tor (0 ling th the m	oncen 36), e 1.5 ine o	tratic on the mg/m3 perato
9. Violation A	. Health ☑ Safety □ Other □	B. Section of Act				C. Part/S Title 30		f			ontinuation	n Form (MSł a) (2)	HA Form 7	000-3a) [
Section IIInspecto												a, (=)		
10. Gravity:	ness (has) (is):	No Likelihr	nd 🗖	Unlikely	, <b>—</b>	Boa	eonably	Likely 🗸	і <sup>і</sup> ці	ghly Likel		000	irred 🗌	
B. Injury or illi	ness could rea-	······				· · · · ·	-		_					
	expected to be:		Workday	/s 🗆	LOST	orkdays C	r Hestri	cted Duty	-		-	abling 🗹		il 🗌
C. Significant	and Substantial:	Yes		No 🗌					D.	Number	of Perso	ns Affecte	d:	001
11. Negligence (	check one)	A. None	] 6	3. Low 🔽	С	. Moderat	ie 🗌	D.	High 🗌		E. Reck	less Disreg	ard 🗌	
12. Type of Actio	on 1	04(a)		13. Type	of Issua	ance (che	ck one)	Citatio	n 🔽 🤇	Order 🗌	Safe	guard 🗌	Writte	n Notice [
14. Initial Action A. Citation	B. Order	C. Safegua	rd 🗖 D	. Written No	tice 🛛		itation/ rder Nu	nber				F. Dated	Mo	Da Yr
15. Area or Equi	pment				•									
10 T		44	V- 1											
16. Termination	Due A. Date	Mo Da 3/25/2	18	. Time (24 F	łr. Cloc	k)	1600							
Section IIITermina								1						
17. Action to Ter	minate							3						
18. Terminated	A. Date Mo I	)a Yr	B. Time (2	24 Hr. Clock	)									
Section IVAutoma		<u> </u>												
<ol> <li>Type of Inspectivity code</li> </ol>		20, Event		846253			21. P	rimary or t	Mill					
22. AR Name		1	JOHNDC				1			23. AF	RNumb	er 0 12 3	4	
MSHA Form 7000- established a Natio enforcement action	nal Small Business s. The Ombudsma s of MSHA, you ma	and Agricultu n annually ev y call 1-888-F	ire Regulato aluates enfo REG-FAIR (*	prcement activ	an and 1 ities and 7), or wi	0 Regional rates each rite the Omi to file a cor	Faimess agency oudsman	Boards to r s responsive at Small Br	eceive con eness to sr usiness Ad udsman is	nments from nall busines ministration in addition	n small b ss. If you , Office o	e Small Busi usinesses at wish to com if the Nationa	ness Admi bout federa ment on the al Ombuda	al agency ne man, 4093

## 104(a) Citation 30 CFR 70.100(a)(2) for DO & NDO Termination

## Citation 1000006-01

**Section 1** – *condition or practice* 

**Note:** Use the lab analysis sheet for information within the citation.

## 104(a) CITATION 30 CFR 70.100(a)(2) FOR DO & NDO TERMINATION

Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration	$\langle\!\!\langle \rangle\!\!\rangle$
Section 1Subsequent Action/Continuation Data		
1. Subsequent Action 1a. Continuation         2. Dated         Mo         D           Image: Continuation in the second se	100000-01	
4. Served To MARK BLACKBURN, FOREMAN	5. Operator MOUNTAIN MOMMA COAL	
6. Mine MOUNTAIN MOMMA MINE	7. Mine ID (Contractor) 01-2345	

The operator has submitted 5 valid respirable dust samples in the working environment of the continuous mining machine operator and has an approved ventilation plan revision with corrective actions for the 001-0 MMU.

A. Date	D. Time	24 Hr. Clock)	C. Vacated	D. Terminated     E. Modified
ection IV-Inspection Data	10, Event Num	ber		
E01	9846253			
1. AR Name		AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
IOHIN DOE		01234	03/26/2020	07:26

## 104(a) Citation 30 CFR 90.100(b) for Part 90 Miner

## Citation 1000001

**Section 1** – *condition or practice* 

Note: Use the lab analysis sheet for information within the citation.

# 104(a) CITATION 30 CFR 90.100(b) FOR PART 90 MINER

	ion Data							
Date	<b>Mo Da Yr</b> 4/15/2020	2. Time (24 Hr. C	0700			3. Citation/ Order Number	1000001	
Served To	Jerry Jone	s, Owner		5. Operato	r		1000001	
	-	8			Mega	abucks Mining		
Mine		NO. 1		7. Mine ID	15-12345		(Contra	actor
Condition o	or Practice					88	a. Written Notice (103o	g) 🗌
the Par exceeds shall m correct: limit o: product:	t 90 Miner, the 0.74 m ake availab ive action f 0.5 mg/m3 ion shift u	Occupation g/m3 ECV the le approved s to lower the and sample s	Code 101 wor reby exceedi respiratory concentrati the Part 90 samples are	king on the ng the 0.5 equipment t on of respi Miner, Occu taken. The	NO. 1 Belt mg/m3 appl: to the affect rable dust upation Code first of 1	the working e t was 1.5 mg/m icable standar cted miner, tas to within the e 101 each cor the 5 samples	n3. This sampl rd. The operat ake immediate e permissible asecutive	Le
Violation	A. Health ☑ Safety □	B. Section of Act		C. Part/Section of Title 30 CFR	of		orm (MSHA Form 7000-3	a) 🗖
ection IIInspe	Other  Other					90.100(}	5]	
0. Gravity:						<u>- 1</u> 3		
Consection and Consection	r Illness (has) (is):	No Likelihood 🗌	Unlikely 🗌	Reasonably	/ Likely 🔽 🔤	Highly Llkely 🗌	Occurred	
	r illness could rea- be expected to be	. No Lost Workd	lays 🗖 🛛 Lost V	Workdays Or Restr	icted Duty 🗌	Permanently Disabli	ng 🗹 🛛 Fatal 🗌	
C. Signific	ant and Substantia	l: Yes √	No 🗆			D. Number of Persons	Affected: 0.0	1
1. Nealiaenc	e (check one)	A. None	B. Low	C. Moderate 🔽	D. High ⊺	E Beckles	s Disregard	
2. Type of A	4 8 4	-2		uance (check one)		Order 🗌 Safegu		ine
		104(a)	13. Type of iss	1			<u>6</u>	14
4. Initial Acti A. Citation		C. Safeguard 🗖	D. Written Notice	E. Citation/	mber	E.	Dated MoDa	۲r
5. Area or E	quipment							
	on Due A. Date	MoDa Yr	B. Time (24 Hr. Ck	ock)	5			
6. Terminatio		4/30/2020		0700	)			
	nination Action							
	nination Action							
ection IIITern								
ection IIITerm 7. Action to	Terminate							
ection IIITern	Terminate	Da Yr B. Time	e (24 Hr. Clock)					
ection IIITerm 7. Action to <sup>-</sup> 8. Terminate	Terminate	Da Yr B. Time	) (24 Hr. Clock)					
ection IIITerm 7. Action to <sup>-</sup> 8. Terminate	A. Date Morated System Data Spection	Da Yr B. Time 20. Event Numbe	or .	21. F	Primary or Mill	1		
ection IIITerm 7. Action to 8. Terminate ection IVAuto 9. Type of In	Terminate	20. Event Numbe		21. F	rimary or Mill	23. AR Number	51050	

#### MNM and Coal Mine Noise

When citing Metal Non-Metal or Coal mines the use of 30 CFR Part 62 OCCUPATIONAL NOISE EXPOSURE Subpart M is used by both MNM and COAL

## Noise AL 104(a) Citation NS&S

Section I – Violation Data								
Box 1. 🗆	<i>Date</i> - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.							
taken. If th	will have an occurrence date; this is the date that the sample was ne sample results are obtained on the same date the sample was taken ate and occurrence date may be the same.							
Section II	- Inspector's Evaluation							
Line A. Inj	ury or Illness (has)(is): Unlikely.							
5	ary or illness could reasonably be expected to be: Noise induced hearing ays Permanently Disabling.							
Line C. Sig	<i>nificant and Substantial</i> : 62.120 citation <u>cannot</u> be issued as S&S.							

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4-66

# NOISE AL 104(a) CITATION NS&S

	ion Data									
. Date	<b>Mo Da Yr</b> 5/14/2020	2. Time (2	24 Hr. Clock) 1204					Citation/ Order Num	nber	1000006
. Served To	Joe Howell	- Owne:	r	5. O	perator	122			200	
. Mine				7. M	ine ID	C.	rush	CO., I	NC	(Contractor)
. Condition o	- Desetion	CRUSHER	240			41-0000	1		8-196-14	
		C	HA full shift no:	Energy and the second					53	en Notice (103g) 📋
the #121 exceeds enrolled as requi	l New Holla the action d in a hear ired by 30	nd skid level d ing cons CFR 62.1	steer loader red lose of 50% plus servation program 120. Hearing prot to allow the min	ceived â the err m that m tection '	n act or fa eets was 1	tion leve actor (or all the not being	el no r 66% requ g use	ise do . The iremen d.	se of 78 miner wa ts of 30	.36%. This as not CFR 62.150
		1	cam which meets a							
Violation	A. Health 🗖	B. Section		C. Part/Se	ction of	-		See Contin	uation Form (MS	SHA Form 7000-3a) 🔲
. VIOIATION	Safety 🔲 Other 🗖	of Act		Title 30				C.	2.120	
ection IIInspe	ector's Evaluation	-						6.	2.120	
0. Gravity:								i erezu ez	-	. 🗖
	· Illness (has) (is): · illness could rea-	No Likeliho	ood 🗌 Unlikely 🗹	Reas	onably	Likely 🗌	High	y Likely	Occ	curred
the contract of the contract	be expected to be	: No Los	t Workdays 🗖 Lost	Workdays Or	Restric	ted Duty 🗌	Pe	manently	<sup>r</sup> Disabling <b>r</b> □	Fatal 🗌
C. Significa	ant and Substantia	l: Yes	s 🗌 No 🗹				D. N	um ber of F	Persons Affect	ed: 001
1. Negligenc	e (check one)	A. None	B. Low	C. Moderat	e 🗸	D. Higl	h 🗌	E. I	Reckless Disre	əgard 🗌
2. Type of A	ction	104(a)	13. Type of Is:	suance (chec	k one)	Citation	Ø Ord	ler 🗌	Safeguard 🗌	] Written Notice
4. Initial Action		C. Safegua	ard 🔲 D. Written Notice		tation/ der Nur	-h			F. Dated	Mo Da Yr
A. Citation 5. Area or Ec	20 (b	C. Salegua				nber				
5. Area or Et	Juipment									
	on Due A. Date	Mo Da Yi	B Time (24 Hr C	lock)						
<ol> <li>Termination</li> </ol>	7.1. D uit	5/26/2	2020	io en,	1700					
	ningtion Action									
ection IIITern	nination Action									
ection IIITern	5 - 15									
ection IIITern 7. Action to 1	Ferminate									
ection IIITern 7. Action to 1	Ferminate	Da Yr	B. Time (24 Hr. Clock)							
ection IIITerm 7. Action to 1 8. Terminate	Terminate	Da Yr	B. Time (24 Hr. Clock)							
ection IIITerm 7. Action to 7 8. Terminate ection IVAuto 9. Type of In	Ferminate d A. Date mated System Data spection	Da Yr 20. Event	t Num ber		21. Pi	imary or Mill				
ection IIITerm 7. Action to 7 8. Terminate ection IVAuto 9. Type of In (activity co	d A. Date Mo mated System Data spection pde) E01	10000.2007A (0.0.0).			21. Pi	<b>imary or Mill</b> P		23. AR N	lumber	
7. Action to 7 8. Terminate ection IVAuto 9. Type of In (activity co 2. AR Name	ferminate d A. Date Mo Mo Mo Mo Mo Mo Mo Mo Mo Mo	20. Event	t Num ber		21. Pi	• Sec		23. AR N	lumber	
ection IIITerm 7. Action to 7 8. Terminate ection IVAuto 9. Type of In (activity co 2. AR Name SHA Form 700 stablished a Na nforcement act nforcement act	Image: definition of the section o	20. Event ) In accord as and Agricult an annually ev lay call 1-888-P (20416. Plea	t Num ber	nd 10 Regional and rates each r write the Omb ht to file a com	Regulat Fairness agency udsman ment witt	P ory Enforcements Boards to read s responsivene at Small Busine the Ombudsm	eive comn ss to sma ess Admin nan is in a	s Act of 199 hents from s I business. istration, Of ddition to a	96, the Small Bus small businesse: If you wish to co ffice of the Nation	s about federal agency mment on the nal Ombudsman, 409 3r

## Citation 1230006 (Noise AL Citation) Termination

**Section II** – Justification for Action

When terminating any citation when the miners are enrolled in a hearing conservation program that meets all the provision.

# NOISE AL 104(a) NS&S CITATION TERMINATION

1. Subsec		tion/Continuation 1a. Continuati		2. Dated (Original	M o (eussil			3. Citation/ Order Numb	her 100	00006 - 01		
✓ 4. Served	To Joe How	ell - Owner		Criginal	()	5/14/20	5. Operat	or	Jei			
							Crush ( 7. Mine II	CO., INC			(O	
6. Mine	CRUSHE	.K 240					41-000	) )1			(Contractor)	
	Justification for											
The ope	rator of th FR 62.150	e No. 121s.	sta sta	er loader :	has been o	enrolled	in a form	ial hearing c	conser	vation program i	meeting all provi	51015
Section III 8. Extend	Subsequent A	Ma Da	Yr							5718:	Sec	
	A. Da	te	н	B. Time (24	4 Hr. Clock)			C. Vac	ated	<ul> <li>D. Terminated</li> </ul>	E. Modified	
	Inspection Da	ta	10 ⊑	vent Numbe	r							
E01	0.43			0001	•							
11. AR Na	ame				AR Numbe		12. Date 05/18/20		Yr	13. Time (24 Hr. Cl	ock)	
							03/18/20	20		11:06		
10110 5		r 85 (revised)										

٦

# Noise PEL 104(a) Citation

Citation 12	30007 (Noise PEL Citation)							
Section I –	Violation Data							
Box 1. □	<i>Date</i> - This is the date the citation is issued. In most cases this is the date that the sample results are received, it was determined that a violation occurred and the citation is issued.							
Note: IAS will have an occurrence date; this is the date that the sample was taken. If the sample results are obtained on the same date the sample was taken the issue date and occurrence date may be the same.								
Box 8. $\Box$ <i>Condition or Practice</i> – List if the miner sampled is wearing hearing protection and if the miner is enrolled in a hearing conservation program.								
Section II -	- Inspector's Evaluation							
Box 10. □	Gravity –							
5	<i>ury or Illness (has)(is):</i> Unlikely vs Reasonable Likely is dependent on e miner is wearing appropriate hearing protection.							
5	ary or illness could reasonably be expected to be: Noise induced hearing bys Permanently Disabling.							

# NOISE PEL 104(a) CITATION

	ion Data								
. Date	<b>Mo Da Yr</b> 5/14/2020	2. Time (24 Hr. C	лоск) 1109			3	6. Citation/ Order Numb	er	1000007
. Served To	Joe Howell	- Owner		5. Ope	rator	Slab	CO., INC		
. Mine				7. Mine		10.6 autors			(Contractor
. Condition o	Bench 12 r Practice				41-06	666		8a. Writte	n Notice (103g)
laborer permissi institut hearing 30 CFR 6	received a ible exposu ced all fea conservation 52.120. Hea	f an MSHA fu permissible re level of sible engine on program t ring protect ing injuries	exposure n 100% plus t ering and a hat meets a ion was bei	oise level he error f dministrat ll the rec	dose of factor (o tive cont quirement	227.3 r 132% rols. s of 3	<ol> <li>This</li> <li>The o</li> <li>The mine</li> <li>CFR 62</li> </ol>	exceeds perator r is enr .150 as	the has not olled in a required by
	nt time is : trative con	set to allow trols.	the operat	or to inst	all all	feasib	le engin	eering a	nd
The mine conserva level.	e operator n ation progra	must ensure am until the	continued u noise dose	se of heam is reduce	ring prot ed to or	ection below	the perm	issible	n a hearing exposure HAForm 7000-3a) 🗖
9. Violation	A. Health Safety	B. Section of Act		C. Part/Sect Title 30 C			2020.0 B		
Section IIInspe	Other  Other						62.1	.30(a)	
		No Likelihood 🗌	Unlikely 🖌	] Reasor	ably Likely 🗌	] Hig	ghly Likely 🗌	] Occi	ırred 🗌
	illness could rea- be expected to be	: No Lost Workd	ays 🗖 🛛 Lost	t Workdays Or R	estricted Duty		Permanently [	Disabling 🗗	Fatal 🗌
C. Significa	ant and Substantia	l: Yes	No 🔽			D.	Number of Pe	ersons Affecte	<b>d:</b> 001
1. Negligenc	e (check one)	A. None	B. Low	C. Moderate	<u>۲</u> D.	High 🗌	E. R	eckless Disre	2000 CT
2. Type of A	ction	104(a)	13. Type of Is	ssuance (check o	one) Citatio	on 🖌 🔇	Drder 🗌 S	afeguard 🗌	Written Notice
				E. Citat	ian/			F. Dated	Ma Da Va
1000 00 0000 1020 00		C. Safeguard 🗖	D. Written Notice		r Number				Mo Da Yr
14. Initial Action	B. Order	C. Safeguard 🗖	D. Written Notice						No Da Tr
14. Initial Actio	B. Order	Mo Da Yr	D. Written Notice B. Time (24 Hr. C	Orde					MO DA TR
14. Initial Actio A. Citation 15. Area or Ec 16. Terminatio	B. Order	Mo Da Yr		Orde	r Number				INIO Da Tr
14. Initial Acti A. Citation 5. Area or Ec 16. Terminatio	B. Order	Mo Da Yr		Orde	r Number				Mo Da Tr
14. Initial Acti A. Citation 15. Area or Ec 16. Terminatio	B. Order	Mo Da Yr		Orde	r Number				Mo Da Tr
14. Initial Actio A. Citation 15. Area or Ec	B. Order quipment on Due A. Date nination Action Ferminate	Mo Da Yr 5/21/2020		Orde	r Number				Mo Da Tr
14. Initial Action A. Citation 15. Area or Eco 16. Termination Section IIITerm 7. Action to 1 18. Terminate Section IVAuto	B. Order Due A. Date Mo A. Date Mo Action	Mo Da Yr 5/21/2020	B. Time (24 Hr. C e (24 Hr. Clock)	Clock) 1	500				
4. Initial Action A. Citation 5. Area or Eco 6. Termination Section IIITerm 7. Action to 1 8. Terminate Section IVAuto	B. Order Due A. Date A. Date Mo nination Action	Mo Da Yr 5/21/2020	B. Time (24 Hr. C e (24 Hr. Clock)	Clock) 1	r Number	Mill			
14. Initial Action     A. Citation     A. Citation     S. Area or Ec     G. Termination     Section IIITerm     Action to 1     B. Terminate     Section IVAuto     G. Type of In	B. Order Due A. Date Mo A. Date Mo Matter System Data spection	Mo Da Yr 5/21/2020	B. Time (24 Hr. C e (24 Hr. Clock) er	Clock) 1	500	Mill	23. AR Nu	mber	

## Noise PEL 104(a) Citation Termination

#### Citation 1230007-01 (Noise PEL Termination)

**Section II** – Justification for Action

When terminating any citation where engineering and administrative controls are installed to reduce exposure, all controls that are being used must be listed in the Justification for Action.

## NOISE PEL 104(a) CITATION TERMINATION

Subsequent Action 1a. Continuation       2. Dated (Original Issue)       Mo       Da       Yr       3. Citation/ Order Number 1000         Served To Joe Howell - Owner       5. Operator Slab CO., INC         . Mine       Bench 12       7. Mine ID 41-06666         extion II-Justification for Action         The operator lined the metal bins and shaping table at the #4 chopper with rubber belting to Based on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received ose of 76%. This dose is less than the permissible exposure level of 100% plus error factor The chopper laborer identified above must remain enrolled in a hearing conservation progr he provisions of 30 CFR 62.150 until the noise dose is reduced below the action level.	(Contractor) o reduce the noise level. a permissible exposure level noise or (or 132%).
Mine       Bench 12       7. Mine ID 41-06666         intimitive-Justification for Action       41-06666         he operator lined the metal bins and shaping table at the #4 chopper with rubber belting to ased on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received ose of 76%. This dose is less than the permissible exposure level of 100% plus error facto he chopper laborer identified above must remain enrolled in a hearing conservation progr	o reduce the noise level. a permissible exposure level noise or (or 132%).
ection II-Justification for Action he operator lined the metal bins and shaping table at the #4 chopper with rubber belting to ased on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received ose of 76%. This dose is less than the permissible exposure level of 100% plus error facto he chopper laborer identified above must remain enrolled in a hearing conservation progr	a permissible exposure level noise or (or 132%).
he operator lined the metal bins and shaping table at the #4 chopper with rubber belting to ased on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received ose of 76%. This dose is less than the permissible exposure level of 100% plus error facto he chopper laborer identified above must remain enrolled in a hearing conservation progr	a permissible exposure level noise or (or 132%).
ased on an MSHA full shift noise sample taken on 5/18/20, the chopper laborer received ose of 76%. This dose is less than the permissible exposure level of 100% plus error facto he chopper laborer identified above must remain enrolled in a hearing conservation progr	a permissible exposure level noise or (or 132%).
	am which complies with
ection IIISubsequent Action Taken Extended To Mo Da Yr	
A. Date B. Time (24 Hr. Clock)	D. Terminated E. Modified
Type of Inspection         10. Event Number           C01         1 000001	
1000001           1. AR Name         AR Number         12. Date         Mo         Da         Yr         1	13. Time (24 Hr. Clock) 16:20

#### Noise PEL P CODE 104(a) Termination

## Citation 1230008-01 (Noise PEL P Code Termination)

**Note:** A P Code review must be conducted before terminating a citation where the noise exposure continues to exceed the noise PEL. P Codes reviews are initiated and conducted by the district. Terminating a citation with a P Code requires National Office approval.

**Section II** – Justification for Action

Document that a P Code review has been conducted and list the assigned P Code number. Outline the job duties and function of the affected miner(s). List all controls implemented by the operator to reduce the noise exposure

## **CHAPTER 5 - GENERAL INFORMATION**

#### Citation/Order Books / IAS Citation Numbers - Accountability

Inspectors are accountable for violation numbers issued through the Inspection Application System (IAS). Upon receipt of the violation numbers, the inspector must sign and date to acknowledge receipt of these numbers. Open the IAS home page, select Forms, then select Citation Disposition, then follow the Citation Disposition Wizard.

#### **Issuing Citations and Orders**

It is not mandatory to give mine operators the citation or order form at the time the violation is observed. The operator or agent, however, will be informed of violative conditions observed and provided with information regarding exposure, negligence, severity, and the time permitted for abatement. Citations and orders shall be issued to the mine operator or his or her agent with reasonable promptness.

Note: Some citations or orders, because of the time needed for analysis or for other reasons, might be cited and delivered to the mine operator at a time after the violation has occurred. Examples include, but are not limited to: certain Part 50 violations, certain health violations, violations cited as a result of accident investigations, and violations cited as a result of reviewing accident forms.

## **Citations and Orders Involving Approved Plans or Granted Petitions for Modification**

When issuing citations and orders for violation of approved plans such as approved ventilation plans, approved roof control plans, emergency response plans, or for violation of terms in a granted petition for modification, the following items should be listed in the body of the citation:

Item # 8  $\square$ : The plan or petition's approval date, the page number, and the item number being cited. Petitions for modification terms cited should have the document/docket number of the petition and the page or item violated, as applicable.

#### **Inspection or Investigation Closeout Conference**

At the conclusion of any enforcement-related inspection or investigation, inspectors shall discuss the general findings and each violation issued with the mine operator and, if applicable, with contractors and/or miners representatives. Also, during this conference, inspectors will inform and discuss following:

• If citations or orders will be evaluated as possibly flagrant and/or any that will be recommended for possible special assessment.

All parties will also be informed that they have 10 days to submit additional information or request a safety and health conference with the District Manager or designee if they disagree with actions taken by the inspector during the inspection or investigation. Further, all parties should be told that it is within the sole discretion of MSHA to grant requests for a conference and that a request for such conference must be in writing and include a brief statement of the reason(s) why each citation or order should be conferenced as required by 30 CFR Part 100.

# Compliance Assistance Visit (CAV) Inspection Follow-Up (Metal and Nonmetal (MNM)) and (Coal Mine) Mine Act Section 303(x)

## (MNM MINES)

If an inspector observes an unabated violation which was noted on a previous CAV inspection, a 104(a) citation will be issued without referencing the CAV notice in the narrative or negligence evaluation section of the citation.

Inspectors should remember that a 104(a) citation is not the only action that can be taken for unabated CAV notices. Since the CAV inspection, the hazard observed during that inspection may have worsened or miners' exposure to the hazard might have increased. If an imminent danger situation now exists, a Section 107(a) withdrawal order should be issued with no reference made to the CAV notice in the body or negligence evaluation section of the order.

## (COAL MINES)

Section 303(x): Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection of the entire mine shall be conducted by an authorized representative of the Secretary before mining operations begin.

## **Field Notes**

Inspector's field notes are official records, whether hand written or typed in the IAS Field Note application. Both hand written, or typed notes must be kept with the Inspection Report. Any notes taken during an inspection, in whatever form, should be included in the final report.

For specific guidance on citation and order documentation, refer to the General Inspection Procedures Handbook PH19-IV/V-1, as follows: <u>GIPH Manual</u>

## **Contractor Citations and MSHA ID Numbers**

Unless a contractor is cited, has a reportable accident, or is engaged in one of the nine types of construction or services listed in the MSHA Program Policy Manual (Volume III), an MSHA contractor ID number is not necessary. Some mine operators, however, require contractors to get numbers as a precondition for contract bidding. MSHA will provide an ID number for any contractor who requests one, but they need not apply except for the reasons specified above.

A contractor without an MSHA ID number can be cited using the mine operator's mine ID number until a contractor number is issued. A modification can then be written to include the new contractor number and to change the company name to the contractor's name when that number is obtained.

Note: The contractor's name entered on the citation must be exactly as it was when the MSHA Contractor ID number was assigned.

Contractor citations cannot be put into the MSHA computer system until the contractor is linked to the mine ID number.

## **Issuing Citations or Orders - Accident Investigations**

Inspectors will initiate a separate event and use that event number if citations or orders are issued which are not directly related to an accident. If a regular inspection is not ongoing at the mine at the time of the accident, a new event should be initiated.

Note: Unrelated citations or orders should not be included with the accident report.

## **Termination (Abatement) Times for Citations**

Inspectors shall give primary consideration to the health and safety of miners in establishing abatement times for all citations. The termination time for a citation must be specific and provide a reasonable time for mine operators to abate the conditions, practices, or circumstances which caused issuance of the citation. Citation abatement times shall not be established for the convenience of the mine operator, or for the inspector. The filing of a contest of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission or the filing of a petition for modification does not relieve the operator or contractor of the responsibility for terminating or abating the violation by its due date.

## **Extending/Terminating Citations at an MSHA Office**

Most citations and orders require an on-site inspection to verify appropriate abatement

before they can be terminated. Some citations and orders, such as those relating to certain records, may be terminated without conducting an on-site inspection. A field office supervisor should review and approve any citations or orders that are terminated by inspectors without conducting an on-site inspection. A "new" event number should not be initiated when a citation or order is extended, terminated, or vacated from an MSHA field office. The appropriate enforcement activity code from the last on-site inspection should be used.

## Extending Citations - Operator has Contested a Citation or Order

Contest of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission or the filing of a petition for modification does not relieve the operator or contractor of the responsibility of complying with the cited mandatory standard by its due date. These activities are not a basis to extend any citation unless inspectors are directed otherwise.

## Modifications to Citations/Orders/Subsequent Actions

The original Mine Citation/Order Form 7000-3 and 7000-3a and all copies must be exactly alike. Any items written or entered in error on the form must be modified using a Mine Citation/Order Continuation Form 7000-3a. Inspectors will not make changes on MSHA copies nor ask mine operators to make the same changes on their copies.

## **Terminating Citations and Orders**

Citations and orders will be terminated on either the Mine Citation/Order Form or a Subsequent Action Form and given to the mine operator or contractor.

**Example:** Four citations/orders were written and issued to the mine operator on Monday. Three days later all violative conditions were corrected. The four citations/orders shall be individually terminated on a Mine Citation/Order Subsequent Action Form 7000-3a.

Citations and orders shall be terminated when a mine is classified by MSHA as permanently abandoned and sealed, or if the operation or equipment moves to a location some distance from the original site (e.g., a portable crusher). Citations and orders shall also be terminated when out of compliance equipment is permanently "removed from service," is permanently retired from service, or is permanently removed from the mine site.

The following procedures shall apply when citations and orders are terminated in the above situations:

- Mine operation status is changed to "permanently abandoned".
- The inspector shall make every reasonable attempt to determine if the operator complied with the cited standards.

If the operator did comply then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write on the termination(s) that the violative condition(s) or practice(s) was corrected.

If it is determined that the operator did not correct the violative condition(s) or practice (s) before the mine was abandoned then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write the following on each termination:

"The basis for termination of this citation (or order) is the classification of the mine as permanently abandoned. The violative condition(s) or practice(s) was not corrected. The operator is required to comply with the provisions of the cited standard before resuming activities at this location or at another mine."

Operation or equipment moves to a new location away from the initial mine site. If the inspector determines that the operator did comply prior to moving then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Note on the termination(s) that the basis for termination is that the violative condition was corrected.

If the inspector determines that the operator did not comply prior to moving, then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Write the following statement on each termination:

"The basis for termination of this citation (or order) is the moving of mining operations (or equipment). The violative condition(s) or practice(s) was not corrected prior to moving. The operator is required to comply with the provisions of the standard before resuming any activities at another mine. Failure to correct the cited condition(s) or practice(s) prior to resuming these activities will be considered more than ordinary negligence."

## **Equipment Removed from Service**

The term "removed from service" does not mean that the mine operator stopped using and parked a piece of equipment (e.g., front-end loader, truck) or a mining unit (e.g., portable crusher, screening unit) when it could be restarted and easily placed back into service in the same condition which caused issuance of the original citation(s) or order(s). Rather, "removed from service" refers to the action(s) taken by the mine operator or contractor to render the equipment inoperable and eliminate the violation. The inspector should note those actions on the termination and refer to any evidence that the equipment was removed from service such as documentation and relevant statements made by the mine operator, or his or her representatives.

## Mine Ownership Changes with Outstanding Citations or Orders

When ownership of a mine changes after a citation(s) or order(s) is issued, the termination should be issued to the operator of the property at the time of termination. The operator of the mine at the time a citation is issued is the entity that will be assessed the civil penalty even though the mine no longer belongs to that operator.

In all cases, do not modify the outstanding citation(s) to change mine ownership.

When a change in mine operator occurs after a citation is issued but before it is terminated and justification is not found to extend the citation, a Section 104(b) order of withdrawal can be issued to the new mine operator.

**Example**: On July 1, Jane Doe Sand and Gravel is cited for an unguarded conveyor head pulley and given one week to abate the condition. On July 7, Tom Brown Crushing purchases the mine and begins managing the operation the same day. On July 10, an inspector returns to check on the outstanding guarding citation and finds that a guard had not been installed on the head pulley.

Based on the circumstances noted above:

An extension would be issued if the inspector found and documented mitigating circumstances (e.g., the new mine operator was unaware of the violation). The extension would be issued to "Tom Brown Crushing" noting in Section II narrative of form 7000-3a that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator; or

A Section 104(b) order of withdrawal would be issued if the inspector found and documented that there were no mitigating circumstances to issue an extension (e.g., the new mine operator was aware of the violation but chose not to abate the

cited condition). The 104(b) order would be issued to "Tom Brown Crushing" noting in the Item 8 narrative that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator.

## Vacating Citations/Orders

Vacated citations and orders must be included with inspection or investigation reports as they are part of the inspection record. If the inspector is still at the mine, he or she will not reclaim the previous copies and mark the citation or order "Void". Instead, those copies shall be left with the mine operator and inspectors shall issue a "Vacate" action on Form 7000-3a, stating the specific reason for vacating the citation or order on that form. Copies of all vacated citations and orders shall be forwarded to the District Office separate from the inspection report. Vacating an imminent danger order must be authorized by the appropriate District Manager prior to that action occurring.

## Standard Subsections - Citations/Orders

Specify both the standard and the appropriate subsection when a violation is cited.

## Part 44 - Petitions-for-Modification

Title 30 CFR Part 44.4(c) reads in part: "... Orders granting petitions-for-modification may contain special terms and conditions to assure adequate protection to miners. The modification, together with any conditions, shall have the same effect as a mandatory standard."

When a violation of one or more of the conditions specified in granted petitions-formodification is found, the inspector shall:

- Cite the safety standard for which the petition-for-modification was granted;
- Include the docket number of the granted petition-for-modification in Item 8 of the Mine Citation/Order Form;
- Note the specific condition which was violated in the narrative of the Mine/Citation Order Form; and
- Notify his (or her) supervisor after citing this violation.

This citation may be the basis for initiating action to revoke the granted petition depending on the circumstances present at the time of issuance. Any request to revoke a

petition must be sent to MSHA HQ; these are not handled by the District.

## Possible Knowing/Willful Violation Review Form (7000-20)

Inspectors will complete a Possible Knowing/Willful Violation Review (PKW) Form for:

- a. 107(a) orders with 104(a) and 104(d) citations;
- b. 107(a) orders with 104(d) orders;
- c. S&S 104(d) citations and orders with an evaluation of at least "high" for negligence;
- d. 104(e) orders of withdrawal with an evaluation of at least "high" for negligence;
- e. flagrant violations; and
- f. citations issued for working in violation of an order.

Only a violation of a mandatory health and safety standard or order issued under the Mine Act shall be reviewed for possible further action. This includes violations of 30 CFR, Parts 46, 47, 48, 49, 50.10, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90.

The submission of the PKW form (7000-20) is submitted electronically through the IAS first:

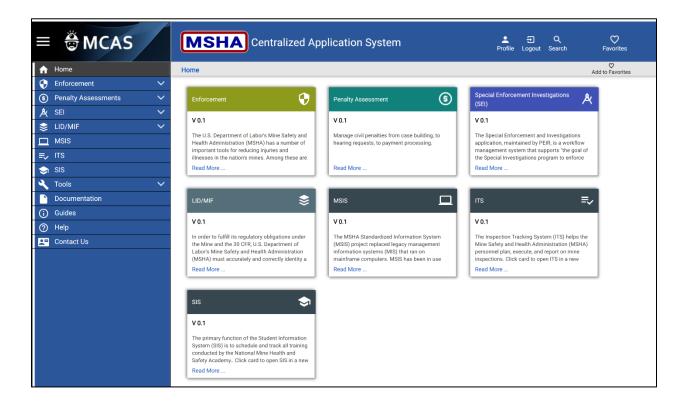
- Open IAS home page.
- Check to make sure you have the correct event number select the right event number
- Click the dark green FORMS icon.
- Select the Possible Knowing/Willful Violation Review tab.
- Follow the drop-down windows; select the correct citation/order number.
- Proceed through the form answering the questions.

After finishing the form, open MCAS–MSHA Centralized Application System:

https://gold.msha.dir.labor.gov:8095/MCASPortal/#/portal/login

$\leftarrow$	→ C 🍵 gold.msha.dir.labor.gov:80	995/MCASPortal/#/portal/login	☆	0		Θ:
	<b>⊕</b> MCAS	MSHA Centralized Application System				
♠	Login					
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		You are entering an official United States Government system which may be used only for authorized purposes. The Government m audit usage of this system and all persons are hereby notified that use of this system constitutes consent to such monitoring and a	uditing.		1	
		Unauthorized attempts to upload information and/or change information on this web site are strictly prohibited and are subject to p under the Computer Fraud and Abuse Act of 1986 and Title 18 of U.S.C Sec. 1001 and 1030. This system contains Privacy Act data		on		

Fill in the Username\* Password\* Note: This is the Username and Password for your computer.



After you login to the MCAS on the left hand side there is several options for dropdown menus.

Select and click on the Special Enforcement Investigation (SEI), then PKW Status List.

	🛱 MCAS	MSHA Ce	entralized Applicat	ion System			Profile	<del>]</del> Logout	Q Search	<b>♡</b> Favorit	es
♠	Home	SEI > PKW Status List								Add to Favor	rites
0	Enforcement V										
\$	Penalty Assessments 🛛 🗸	PKW Status List	0								
Å	SEI ^										_
	105 Open Cases List 🗸 🗸 🗸			Possible Knowing/\	Villful Violat	ion Status Lis	st				
	108 Open Cases List 🗸 🗸 🗸	Search within results									
	110 Open Cases List 🗸 🗸										
	PKW Status List	Citation /			CFR						
	SEI Inquiry 🗸 🗸	Order	Violator	Issue Date	Standard	Inspector	Supervisor	ADM	SSI	Message	Days since
\$	LID/MIF 🗸 🗸	No. Status		Issue Date	Action Type	mopolitor	Supervisor		001	message	Issuance
	MSIS				1700						

From this window click on the Citation/Order No. Status. The citation/order should be in Blue. Follow the instructions, answers the questions and upload the required documentation in the drop-down windows. When you are finished click the blue button to submit it to your supervisor.

## Special Assessment Review Form (SAR) (7000-32)

The submission of the SAR form (7000-32) is done in the IAS – Inspection Application System. Go to forms and select Special Assessment; then it opens the Special Assessment Review Wizard. Follow the instructions.

Violations Requiring Submission of an MSHA SAR Form					
Catagony					Reckless
Category	None	Low	Moderate	High	disregard
Fatality / Serious injury	Yes	Yes	Yes	Yes	Yes
Section 104(a) Citations issued for violations of sections:					
103(a), 103(f), 103(J), 103(k), 104(d), 104(b), 104(e), 104(g)(1),107(a), and 110(j) of the Mine					
Act	Yes	Yes	Yes	Yes	Yes
Flagrant Violation				Yes	Yes
110(b) Daily Penalty for failure to abate	Yes	Yes	Yes	Yes	Yes
110(g) Smoking or smoking materials violations					
cited to miners	Yes	Yes	Yes	Yes	Yes

Any other violation involving circumstances warranting special assessment	Yes	Yes	Yes	Yes	Yes
	. ·	1.	c 1 ·	1	.1

Completion of a SAR form (MSHA Form 7000-32) is mandatory for each violation that is reviewed for special assessment.

- Open IAS home page.
- Check to make sure you have the correct event number; select the right event number.
- Click the dark green FORMS icon.
- Click on the Special Assessment Review icon.
- Follow the directions.

Completion of a SAR form (MSHA Form 7000-32) is MANDATORY for each violation that is reviewed for special assessment.

For more information, see Program Policy Manual Volume III.

# Special Assessment Review Form (7000-32)

Special Assessment Review Form		U.S. Department of Labor Mine Safety and Health Administration				
	rmation that is privileged or se without consulting the O				Ν.	
Do not disclose without consulting the Office of the Solicit 1. MSHA District Office 2. Field Office			and Office Of A396351	in the second		
3. Mine ID/Contractor ID	4. Mine Name	. Mine Name				
5. Operator Name		6. Citation/Order Number 7. Citation/Order Issue Date				
S. Accident Related Violation? Yes	No If yes,	all violations must be su	ibmitted together wi	h any accide	nt report or memorandum.	
9. Operator Notified of Special Assessment?	Yes	No				
10. Inspector's Recommendation	Is this a flag	grant violation?	Yes	No		
Special Assessment? Yes	No If yes, expla	ain below the serious or	aggravating circums	tances involv	ved.	
See Continuation Sheet	Signature				Date	
11. Supervisor's Review		grant violation?	Yes	No	enormal (A)	
Special Assessment? Yes	No					
Comments:						
See Continuation Sheet	Signature				Date	
12. Assistant District Manager's Review	Is this a flag	grant violation?	Yes	No		
Special Assessment? Yes	No	L				
Comments:						
See Continuation Sheet	Signature				Date	
13. District Manager's Review	Is this a flag	grant violation?	Yes	No		
Special Assessment? Yes	No					
Comments:						
	Signature			C	Date	
See Continuation Sheet MSHA Form 7000-32, Revised August 2006	PHEASE WAR SAFETY AND A				100000000	

## Designating a Violation as "Flagrant"

"Violations under this Section [110(b)] of the Mine Act that are deemed to be flagrant may be assessed a civil penalty. For purposes of the preceding sentence, the term 'flagrant' with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury."

Violations designated as "Flagrant" are an MSHA assessment enforcement tool as are other special assessments. They are applied only to elevated enforcement actions meeting certain criteria.

The inspectors' determination of the proper level of enforcement action remains the same. The enforcement actions of 104(d)(1) citations, 104(d)(1) orders, and 104(d)(2) orders, and the policies and procedures used to determine their use remains the same without regard to a 'flagrant' designation.